S. HRG. 98-337

DAVIS-BACON ACT AMENDMENTS, 1983

HEARING

BEFORE THE

SUBCOMMITTEE ON LABOR

OF THE

COMMITTEE ON LABOR AND HUMAN RESOURCES UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

FIRST SESSION

ON

S. 1172

TO AMEND THE DAVIS-BACON ACT.

JULY 7, 1983
OKLAHOMA CITY, OKLA.

Printed for the use of the Committee on Labor and Human Resources

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DAVIS-BACON ACT AMENDMENTS, 1983

THURSDAY, JULY 7, 1983

U.S. SENATE,
COMMITTEE ON LABOR AND HUMAN RESOURCES,
SUBCOMMITTEE ON LABOR,
Oklahoma City, Okla.

The subcommittee met, pursuant to notice, at 9 a.m., in room 432–A, State Capitol Building, Oklahoma City, Okla., Senator Don Nickles presiding.

OPENING STATEMENT OF SENATOR NICKLES

Senator NICKLES. I want to thank the people here, and the participants who are interested in this piece of legislation. We will spend a little time considering the effects, both the positive effects, possibly the negative effects of the so-called prevailing wage or Davis-Bacon law, as it affects the State and Nation.

Particularly, what I'm interested in learning today is how this law affects the State of Oklahoma; how it affects municipalities, schools, taxpayers, and the working men and women of this country. The purpose of this hearing is to have some Oklahoma input on a law that many times creates a lot of emotionalism and sentiment on both sides of the issue. I would hope that we can come forth from today's hearing with a better understanding of the effects of the law and how it works; what it means to the people of Oklahoma in both dollars and other effects.

We will consider the legislation I've introduced, Senate bill 1172, which does not repeal the Davis-Bacon law, but does call for substantial reform of the existing Davis-Bacon law. For your information the U.S. court of appeals in Washington, D.C., recently confirmed the administrative changes that were called for by Secretary Donovan, which almost parallels the legislation I've introduced.

Senate bill 1172 would increase the threshold from $2,000 to $100,000. That was not in the administrative changes that have recently been agreed to by the court of appeals. Right now, Davis-Bacon statutes apply to any Federal construction project in excess of $2,000. If we increase that threshold to $100,000, then the Federal Government wouldn't be mandating their so-called prevailing wage rate for those projects that would be less than that amount. It would be exempting those projects from the prevailing wage statutes.

Other provisions in the law would eliminate the so-called importation of wage rates from urban areas into rural areas. That's also in the legislation which I've introduced and has been agreed to.

Also, Secretary Donovan calls for the use of what we call a helper or helper ratio. In other words, this would allow helpers, as many as four helpers per three journeymen. The court of appeals has agreed to this. My legislation didn't set any ratio; we just said there would be a helper classification. The other thing that was agreed to by the district court was the change in what we call the 30-percent rule. They've modified the 30-percent rule to make a majority rule or 50-percent rule, to where they wouldn't just pull the 30 percent of the wage rates from any given community to use that as their actual basis. They would make that a 50 percent or majority rule.

Those are the major elements of the change. I'll be interested in hearing your comments, whether they are positive or negative. We have people that will be testifying today on both sides of the issue. I appreciate your comments and your input.

[The text of S. 1172 follows:]

II

98TH CONGRESS
1ST SESSION

S. 1172

To amend the Davis-Bacon Act.

IN THE SENATE OF THE UNITED STATES

APRIL 28 (legislative day, APRIL 26), 1983

Mr. NICKLES (for himself, Mr. EAST, Mr. GRASSLEY, Mrs. HAWKINS, Mr. HUMPHREY, Mr. LAXALT, Mr. MATTINGLY, Mr. THURMOND, Mr. DENTON, Mr. QUAYLE, and Mr. GOLDWATER) introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

---

A BILL

To amend the Davis-Bacon Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

DAVIS-BACON AMENDMENTS

SEC. . (a) Subsection (a) of the first section of the Act of March 3, 1931, commonly known as the Davis-Bacon Act (40 U.S.C. 276a(a)), is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The Secretary of Labor shall base his determination of the wages prevailing for the corresponding classes of laborers, mechanics, and helpers under paragraph (1) on—

"(A) the wage paid to 50 per centum or more of the corresponding classes of laborers, mechanics, and helpers employed on projects of a character similar to the contract work in the urban or rural civil subdivision of the State in which the work is to be performed, or in the District of Columbia if the work is to be performed there; or

"(B) if the same wage is not paid to 50 per centum or more of the laborers, mechanics, and helpers in the corresponding classes, the weighted average of the wages paid to the corresponding classes of laborers, mechanics, and helpers employed on projects of a character similar to the contract work in the urban or rural civil subdivision of the State in which the work is to be performed, or in the District of Columbia if the work is to be performed there.".

(b) The first section of such Act is further amended by striking out "$2,000" and inserting in lieu thereof "$100,000".

(c)(1) The first section of such Act is further amended—

(A) by striking out "mechanics and/or laborers" in subsection (a)(1) and inserting in lieu thereof "laborers, mechanics, helpers, or any combination thereof";

(B) by striking out "laborers and mechanics" wherever it appears and inserting in lieu thereof "laborers, mechanics, and helpers";

(C) by striking out "mechanics and laborers" in subsection (a)(1) and inserting in lieu thereof "laborers, mechanics, and helpers"; and

(D) by striking out "laborer or mechanic" in subsection (b) and inserting in lieu thereof "laborer, mechanic, or helper".

(2) Section 2 of such Act (40 U.S.C. 276a–1) is amended by striking out "laborer or mechanic" and inserting in lieu thereof "laborer, mechanic, or helper".

(3) Section 3 of such Act (40 U.S.C. 276a–2) is amended by striking out "laborers and mechanics" wherever it appears and inserting in lieu thereof "laborers, mechanics, and helpers".

○

Senator NICKLES. Our first witness today is Scott Johnson. Scott, would you and Harry Anderson come to the witness table. I would appreciate all of our witnesses keeping your oral remarks confined to 5 minutes. Your statements will be entered into the record in full as part of the official transcript, so you may summarize.

Scott, would you please proceed. You might identify yourself as the city manager of Oklahoma City.

STATEMENTS OF SCOTT JOHNSON, CITY MANAGER, OKLAHOMA CITY, OKLA., AND HARRY R. ANDERSON, PRESIDENT OF OKLAHOMA MUNICIPAL LEAGUE AND COUNCILMAN, CITY OF LAWTON, OKLA.

Mr. JOHNSON. Thank you, sir.

I'm Scott Johnson, city manager of Oklahoma City. I appreciate, Senator Nickles, the opportunity to discuss the impact of the Davis-Bacon Act wage determinations on the city of Oklahoma City projects.

The city has frequently disagreed with Davis-Bacon wage determinations. We've found them to be arbitrary, grossly inflated, inconsistent with true prevailing wages in the area and unrelated to the supposed objectives of the law, which is to avoid having taxpayer-supported construction projects undercut the going rate for construction work being paid for private projects. The city's projects fall into one of two categories for the purpose of wage determination. The nature of the project dictates whether wages are paid at utility or heavy rates or at building rates. These distinctions are applicable both in our State and Federal wage rate determinations. It presents us with two problems.

First, as I previously stated, the rates are inconsistent with the area's prevailing wages. While utility/heavy construction rates more closely reflect prevailing wages, the building wage rates are much higher.

Interpretation of the regulation—that's the second—often causes projects to be classified as building projects when they clearly could be built at the lower utility or heavy rate.

Our State wage rate legislation closely follows the Federal Davis-Bacon Act. So modification of the Davis-Bacon Act at the Federal level, obviously, is not the only solution to our construction cost problems. We can, however, make some comparisons using our State's heavy construction rate against the Federal building rate for the purpose of illustration.

A useful local example of what we consider the damage done by Davis-Bacon requirements is provided by the Oberholser High Lift Pump Station. It's a proposed modification to this city's oldest water treatment plant and it's necessary to provide adequate supply and pressure to the city's rapidly redeveloping central core area.

We designed this project in 1980, had meant to build it in 1981. It's still not built and that's largely because of Davis-Bacon wage disputes. As a result of the dispute over the proper use of either that State building rate or the Federal utility rate, the high lift pump station was split into two contracts in the hopes of being able to use the lower rate on one of those two contracts. One of them is

a $7.8 million contract and the other would be a $3.1 million contract for a total of about $10.9.

Both of the resulting contracts required the following worker classifications: carpenters, painters, laborers, pipelayers, truck drivers, frontend loaders. And the differences between those two rates are for carpenters, at State utility rate, $6.25; Federal building rate is $11.20. Pipelayers State utility rate is $5.46; the Federal building rate, $13.57. Generally speaking, the ratio of Federal building to these utility rates is 1.73 to 1, a substantial difference.

With no analysis at all, it's obvious that the decision as to which rate to use would have a significant cost impact on that project. Our analysis indicates that the additional cost would be approximately $4 million, assuming in that case that labor costs were about 50 percent of the project.

That lift station has not been built and, therefore, the $4 million is only potential, not actual waste. In just the last 3 years, however, over $41 million in public projects have been built, in which the higher building rates rather than the lower utility rates were required. They have either been completed or are currently under construction.

They consist, briefly, of the North Canadian Sewage Treatment Plant at $24.2 million; a hydrogen peroxide project at that plant, $411,000; the Lake Hefner Water Treatment Plant Rehabilitation, $4.6 million; equipment yard improvements at $900,000; another water treatment plant at $6 million; and the Myriad Gardens Botanical Bridge at $5.1 million for a total of $41 million.

If we had been able to use those State utility rates, rather than the Federal building rates, we figure we would have saved about $9 million in public money.

We had a similar dispute over wage rates to be used in the construction of the McGee Creek dam project. That was originally estimated in excess of $100 million. Wage rates proposed to be used by the Bureau of Reclamation, Department of the Interior, were challenged at that time by union officials. The challenge proposed that the wage rates be based on the construction of the Hugo Reservoir, a much larger construction project.

The Bureau of Reclamation successfully defended its determination and the result was a savings of approximately $7 million.

We share with every other city in the country a severe, even critical problem maintaining and replacing urban infrastructure and that's water and sewer systems, roads and bridges, airports, public buildings. I think that Oklahoma City enjoys a reputation of being cost conscious and being frugal with our taxpayers' money.

It's not fair to city citizens, however, for us to pass up opportunities for joint funding, either with the State or Federal agencies. Our taxpayers pay State taxes and they pay Federal taxes and deserve their fair share of return and we, therefore, do participate.

It's difficult to justify participation, however, in those projects when it's obvious the costs are inflated by Davis–Bacon requirements. It's not a great deal of help to point the finger at the Federal Government or point the finger at the State act. Citizens simply understand that the costs are excessive and their city government is a party to it. They feel they are being shortchanged, they feel

they are being required to pay excessively and they have some justification.

Thank you, sir.

[The prepared statement of Mr. Johnson follows:]

U. S. Senate
Committee on Labor and Human Resources
Thursday, July 7, 1983; 9 a.m.
State Capitol Building, Room 432-A

I appreciate the opportunity to discuss the impact of Davis-Bacon Act Wage Determinations on City of Oklahoma City projects. The City has frequently disagreed with Davis-Bacon Wage determinations. We have found them to be arbitrary, grossly inflated, inconsistent with true prevailing wages in the area and unrelated to the supposed objectives of the law - to avoid having taxpayer supported construction projects undercut the going rate for construction work being paid for private projects.

The City of Oklahoma City's projects fall into one of two categories for the purpose of wage determination. The nature of the project dictates whether wages are paid at "Utility or Heavy" rates or "Building" rates. (these distinctions are applicable in both our State and Federal wage rate determinations.) This presents us with two problems:

1. As previously stted, the rates are inconsistent with the area's prevailing wages. While Utility/Heavy construction rates more closely reflect prevailing wage, the Building wage rates are much higher.
2. The interpretation of the regulation often causes projects to be classified as "Building" projects when they clearly could be built at the lower Utility or Heavy rate.

Our state wage-rate legislation closely follows the Federal legislation, and so modification of the Davis-Bacon Act clearly is not the sole solution to all of our construction cost problems. We can, however, make some camparisons using our State Heavy Construction rate against the Federal Building construction rate, for the purpose of illustration.

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A useful local example of the damage done by Davis-Bacon requirements is provided by the Overholser High Lift Pump Station, a proposed modification to the City's oldest water plant necessary to provide adequate supply and pressure to the City's rapidly redeveloping central core. This project was designed in 1980, meant to be built in 1981. It is still not built, largely because of Davis-Bacon wage disputes.

As a result of the dispute over the proper use of state building rates or Federal Utility rates, the high lift pump station project was split into two contracts as follows:

* High Lift Pump Station	$7,800,000
* Water Main Improvements & Reservoir	$3,152,294
Total	$10,952,294

Both of the resulting contracts required the following worker classifications:

Classification	State Utility	Federal Building
Carpenter (Form Builder)	$ 6.25	$ 11.20
Painter	6.88	9.45
Laborer	4.81	7.45
Pipe Layer - Plumber Pipefitter	5.46	13.57
Truck Driver	5.31	9.40
Front End Loader - Operator	6.42	9.70
Total	$ 35.12	$ 60.77

Generally the ratio of Federal Building/Utility Rates = 1.73 to 1

With no analysis at all, it is obvious that the decision on which rate to use would have a significant cost impact on the project. Our analysis indicates the additional cost would be approximately $4 million, assuming labor costs to be 50% of the total cost.

The Overholser High Lift Pump Station has not been built and therefore the $4 million dollars is only potential waste. In just the last three years, however, over $41 million in

public projects in which building, rather than utility rates, were required have been completed or are currently under construction. They are:

North Canadian Sewage Treatment plant	$ 24,289,911
N. Canadian Hydrogen Peroxide Project	$ 411,150
Hefner Water Treatment Plant Rehabilitation	$ 4,664,180
Water Works Equipment Yard Improvements	$ 911,098
Draper Water Treatment 30 MGD Addition	$ 6,079,192
Myriad Gardens Botanical Bridge*	$ 5,199,000
Total	$ 41,554,531

If State Utility rather than Federal Building rates had been used, we believe over $9,000,000 would have been saved.

A similar dispute arose over wage rates to be used in the construction of the McGee Creek Reservoir project originally estimated to cost in excess of $150 Million. Wage rates proposed to be used by the Department of the Interior, Bureau of Reclamation were challenged by Union officials. The challenge proposed that wage rates be based on those used in development of the Hugo Reservoir, a considerably larger project than McGee Creek. The Bureau of Reclamation successfully defended its selection of wage rates and saved the McGee project approximately $7 million.

Oklahoma City shares with every other city in the nation a severe - even critical problem maintaining and replacing Urban Infrastructure, water and sewer systems, roads and bridges, Airports, public buildings, and other facilities. I think Oklahoma City enjoys a reputation for being cost conscious and frugal with public money. It is not fair to our citizens, however, to pass up opportunities for joint funding of public projects. City taxpayers, after all, pay state and federal taxes and deserve their fair share of benefits in return. It is difficult to justify participation in joint projects when it is obvious the costs are grossly inflated by Davis-Bacon Act compliance. It is not much help to point the finger at the requirements of Federal Law. Our citizens only see that the cost is excessive and that their City government is a party to the excessive cost. They think they are being overcharged or shortchanged and they are right.

---

*Only $2,586,000 of this total was federal funds. The balance came from private donors. The use of these funds, however, caused the higher wage rate determination for the entire project.

Senator NICKLES. Thank you very much, Mr. Johnson.

Mr. Anderson.

Mr. ANDERSON. Mr. Chairman, I'm Harry Anderson, president of the Oklahoma Municipal League and a councilman of the city of Lawton, Okla.

I am speaking today as president of the Oklahoma Municipal League. On my right is Mr. Don Ryder, who is the executive director of the league.

First, I want to commend you, Senator Nickles, for introducing S. 1172, which goes a long way toward correcting the abuses and injustices that currently exist in the Davis-Bacon Act.

For the past several years, city and town officials in Oklahoma in attendance at the annual conventions of the Oklahoma Municipal League have gone on record favoring the repeal of the Davis-Bacon Act. In the absence of such repeal, the provisions of S. 1172 provide a number of needed reforms.

To be specific, the definition of "prevailing wages" is sorely needed. The definition contained in S. 1172 is equitable and practicable. It would more clearly reflect the prevailing wages that are paid in a civil subdivision, which is contracting for the work to be done.

Further, by limiting the wage determination to a specific locality, those taxpayers will be called up to pay taxes for a public project that has a wage rate that is compatible with the taxpayers' ability to pay. In other words, taxpayers in a low-income locality will pay taxes to finance a public project that has wage determination reflective of the lower wages in that locality, while taxpayers in a more affluent locality will pay taxes on a project with higher wage determinations.

The addition of the helper classification will also open up more public jobs to the underemployed and disadvantaged workers. Not only will they have more opportunities for employment but their opportunities for gaining more skills will be considerably broadened.

Finally, raising the threshold for requiring compliance with the Davis-Bacon Act from $2,000 to $100,000 can save many dollars. The public agency on these small projects will experience savings in administration by not having to seek wage determinations and the public will be more quickly served.

Without having to seek wage determinations for projects of less than $100,000, many cities and towns will be able more quickly to bid and to complete needed public improvements. Further, raising the threshold level is expected to reduce the cost of borrowing through more expeditious use of funds. The impact of inflation is lessened by eliminating delays.

In addition to the anticipated savings to the Federal Government of billions of dollars, commensurate savings will be experienced by cities, towns, counties, and State governments with the approval of the reforms contained in S. 1172.

Mr. Chairman, at a later date, the Oklahoma Municipal League will submit for the record a compilation of the results of a survey it is currently conducting among cities and towns on the Davis-Bacon Act.

We appreciate the opportunity to make known the position of the Oklahoma Municipal League in support of the reforms proposed in S. 1172.

Senator NICKLES. Thank you very much, Mr. Anderson and Mr. Johnson, both.

I look forward to receiving the study that the municipal league is in the process of doing. Do you have any idea when that study might be finished?

Mr. ANDERSON. We hope to complete it, Senator, and submit it to you at the end of the month.

Senator NICKLES. We look forward to that and if it's completed by the end of the month, we'll include it as part of this record.

[The information referred to follows:]

OKLAHOMA MUNICIPAL LEAGUE
201 N.E. 23rd STREET · OKLAHOMA CITY, OKLAHOMA 73105 · AC/405 528-7515

1983 AUG 12 PM 1:45

August 10, 1983

The Honorable Don Nickles
United States Senate
123 Russell Senate Office Bldg.
Washington, D.C. 20510

Dear Senator Nickles:

Please find enclosed a copy of a report recently completed by the Oklahoma Municipal League which was referred to in recent testimony by Mr. Harry Anderson, the Municipal League President. You will recall Mr. Anderson presented testimony in Oklahoma City before the committee on Labor and Human Resources with reference to the federal Davis-Bacon Act.

The information included in the attached report was gained after sending a survey to municipalities throughout Oklahoma. Unfortunately, not all respondents were able to estimate the cost of contracts had the federal Davis-Bacon Act not been in force.

We would suspect, however, that all of the municipalities would have been able to realize similar savings as those who did make such estimates. We would also expect cities to save an amount between 5 and 20 percent as was indicated in a letter I believe you received from Mayor Inhofe of Tulsa.

Please let us know if we can furnish additional information or be of any further assistance in this matter.

Very truly yours,

Donald C. Rider
Executive Director

DCR/jss

Enclosure

BEST COPY AVAILABLE

Survey

Davis-Bacon Act

Construction Costs

July, 1983

Oklahoma Municipal League

Budget Year	City/Town	Population	Description of Project	Total Actual Cost	Estimated cost W/O Law
82-83	Cushing	7,720	CPBG Streets	$ 80,000.00	$ 75,000.00
82-83	Cushing	7,720	GDBG Water & Sewer	82,000.00	77,000.00
82-83	Cushing	7,720	EPA Sewer	2,267,272.00	2,000,000.00
81-82	Kellyville	960	Sanitary Sewer System	495,297.06	
80-81	Kellyville	960	Sanitary Sewer System	591,094.84	
80-81	Marlow	5,017	Sewer	849,900.00	424,950.00
80-81	Ravia	487	Sewer System	190,000.00	
82-83	Grove	3,378	Reroof Community Bldg.	32,698.00	30,000.00
82-83	Warr Acres	9,940	39th St. Ponding Project	12,786.72	
82-83	Warr acres	9,940	Police/Fire Addition	343,955.00	
82-83	Guthrie	10,312	UDAG B-81-AB-40-0050	275,000.00	251,093.00
82-83	Guthrie	10,312	UDAG B-81-AB-40-0051	452,280.00	396,514.00
82-83	Guthrie	10,312	UDAG B-81-AB-40-0061	941,000.00	824,975.00
81-82	Guthrie	10,312	UDAG B-81-AB-40-0046	800,000.00	701,360.00
80-81	Beggs	1,428	Wastewater Collection System	55,678.85	
80-81	Dewar	1,048	New Water System	576,000.00	
82-83	Henryetta	6,432	Water & Sewer	77,314.11	
82-83	Henryetta	6,432	Streets & Drainage	63,395.63	
80-81	Henryetta	64,32	17th Street	232,778.23	

Budget Year	City/Town	Population	Description of Project	Total Actual Cost	Estimated cost W/O Law
80-81	Henryetta	6,432	Clegern Sewer	37,988.70	
80-81	Warner	1,310	Eufaula Water Line Project	850,000.00	800,000.00
82-83	Lawton	80,054	Storm Drainage	124,000.00	121,000.00
82-83	Lawton	80,054	Street	120,000.00	115,000.00
82-83	Lawton	80,054	Street	91,000.00	88,000.00
82-83	Lawton	80,054	Street	84,000.00	82,000.00
81-82	Lawton	80,054	Street and Waterline	1,252,000.00	1,216,000.00
81-82	Lawton	80,054	Storm Drainage	1,022,000.00	1,004,000.00
81-82	Lawton	80,054	Building	113,000.00	111,000.00
81-82	Lawton	80,054	Park Improvements	66,000.00	65,000.00
80-81	Lawton	80,054	Street and Waterline	1,454,000.000	1,412,000.00
80-81	Lawton	80,054	Building	289,000.00	283,000.00
80-81	Lawton	80,054	Street	142,000.000	139,000.000
80-81	Lawton	80,054	Street	145,000.00	139,000.00
80-81	Lawton	80,054	Street	162,000.00	158,000.00
82-83	Duncan	22,517	Street Improvements	470,000.00	430,000.00
81-82	Duncan	22,517	Water Main Replacement	860,000.00	75,000.00
81-82	Duncan	22,517	Drainage Improvements	149,000.00	120,000.00
81-82	Poncan City	26,238	Water Pollution Control Plant	1,694,000.00	1,646,000.00
81-82	Ponca City	26,238	Water Treatment Plant	2,232,267.00	2,178,000.00
81-82	Ponca City	26,238	Taxiway & Drainage	533,944.00	450,000.00
80-81	Ponca City	26,238	Building (Airport)	124,948.00	105,000.00
82-83	Tulsa	360,919	Sewage Treatment Plant	11,447,974.00	Tulsa officials estimate

Budget Year	City/Town	Population	Description of Project	Total Actual Cost	Estimated cost W/O Law
82-83	Tulsa	360,919	Sewage Treatment Plant	2,197,249.00	5-20% savings on
82-83	Tulsa	360,919	Building Renovation	3,159,000.00	projects, based on
82-83	Tulsa	360,919	Pedestrain Bridge/Streetscape	895,370.00	General Accounting
81-82	Tulsa	360,919	Depot Restoration	357,000.00	Congressional Budget
81-82	Tulsa	360,919	Fire Station	731,858.00	Office, and President's
81-82	Tulsa	360,919	Residential Streets	564,340.00	Council of Economic
81-82	Tulsa	360,919	Asphalt Overlay	263,017.00	Advisors study completed
81-82	Tulsa	360,919	Roadway Improvement	193,136.00	in 1981.
80-81	Tulsa	360,919	Library	560,580.00	
80-81	Tulsa	360,919	Refuse & Engineering Main		
			to facility	2,816,000.00	
80-81	Tulsa	360,919	Water Main	1,662,227.71	
80-81	Tulsa	360,919	Sewage Treatment Plant	496,589.00	
80-81	Tulsa	360,9191	Street Maintenance facility	458,396.00	

Senator NICKLES. Mr. Anderson, you brought up the problem of paying prevailing wages in municipal subdivisions, a term which is actually used in the Davis-Bacon Act. Does that term have any practical significance that you know of? Or is it really kind of ignored by those parties in the Federal Labor Department that actually set the prevailing wage?

Mr. ANDERSON. Mr. Chairman, if I could maybe respond to that, the importance of tying the wage rate to a locality is highly visible and I can relate my experience when I was in New Mexico a number of years ago, where the poorest area of the State of low-income families and everything else was in the north central part of the State. But the prevailing wage determinations were completely dominated by the work going on at the Los Alamos Energy Laboratories, so that the people there were under the influence for any kind of improvement they wanted to make of the wage rates paid at Los Alamos. Well, this was completely ridiculous. There was nobody in that area of the State who could afford the kind of wage rate dictated by wage determinations influenced by the Los Alamos Laboratories.

Senator NICKLES. Although the ability of those local communities to pay these higher wage rates was limited, would these higher rates have affected the proposed improvements?

Mr. ANDERSON. Yes, sir. It almost, in fact, destroyed any opportunity to make a number of improvements.

Senator NICKLES. And so in some cases, the projects might not even be built in the first place?

Mr. ANDERSON. That's correct.

Senator NICKLES. They didn't have any jobs, not necessarily just determining on what the dollar volume of that job might have been, but you might not have had the job paid, it might have been priced out?

Mr. ANDERSON. Yes, sir.

Senator NICKLES. Mr. Johnson, do you have anything else you wanted to add?

Mr. JOHNSON. No, sir. I might mention, though, that along the lines that Bill was speaking, the example that I have, the Oberholzer high lift pump station is an example of a project that would have been built some years ago, had it not been for wage disputes. And those are, therefore, jobs and wages that would have been paid that have not been paid as a result of that.

Senator NICKLES. You actually would have had some economic activity and a few jobs that would have been created and started but just haven't taken place.

I am looking at your figures on the project you were talking about, $41 million and you estimated you could have saved about $9 million?

Mr. JOHNSON. Yes, sir, that's right, on those projects.

Senator NICKLES. I don't know exactly what kind of shape Oklahoma City is in—but it would have saved $9 million. Would you have spent that on other projects? If not, what would have happened with that money?

Mr. JOHNSON. In some cases, yes, it might have made other projects possible that weren't built as a result. In other cases, it simply added to the cost of the project which are translated into the rates

that people pay for such things as water and sewer service. So the cost has to be repaid. That has to be translated into rates and the rates are higher, as a result.

Senator NICKLES. That hits people at home in their utilities and whatever other expenses.

Mr. JOHNSON. Right.

Senator NICKLES. Well, gentlemen, thank you very much. I appreciate your cooperation and appearance before this committee. We look forward to receiving your study.

Our next panel is the Oklahoma State School Boards Association; Dr. Jo Pettigrew, Harold Butler——

MALE VOICE. Are we going to be able to ask any questions back here?

Senator NICKLES. Not from the panelists. I'll ask the questions. We are working to see if we can't get the House——

MALE VOICE. That's kind of a stacked deck.

Senator NICKLES. No, it's not a stacked deck. This is a fair hearing, but we're not allowing people to speak from the floor. We announced this in the public record asking for people to request to testify before this committee. We're submitting this for the hearing record, so it is open and we're receptive to people on both sides of the issue.

We're also in the process of seeing if we can move to the House Chamber so we have a greater opportunity for more people to witness this proceeding.

MALE VOICE. I want it understood that the Oklahoma State School Boards Association does not represent all school boards in Oklahoma.

Senator NICKLES. Dr. Pettigrew, would you care to proceed.

STATEMENTS OF DR. JO PETTIGREW, ASSISTANT EXECUTIVE DIRECTOR, OKLAHOMA STATE SCHOOL BOARDS ASSOCIATION, ACCOMPANIED BY HAROLD BUTLER, SUPERINTENDENT, CARNEGIE PUBLIC SCHOOLS, CADDO COUNTY, JACK ATCHLEY, SUPERINTENDENT, DUNCAN PUBLIC SCHOOLS, STEPHENS COUNTY, AND GRADY MEEK, SCHOOL BOARD MEMBER, MILBURN PUBLIC SCHOOLS, JOHNSON COUNTY, A PANEL

Dr. PETTIGREW. Thank you, Senator Nickles, for your concern with the problems of school construction in Oklahoma. We welcome this opportunity to work with you.

Paying construction workers the prevailing wage of a particular area is a concept that sounds good. That concept, however, has become a reality of inflated wages, imported workers and frustrated local contractors who hesitate to bid on local projects. For Oklahoma schools, the results are sometimes devastating.

Although most schools in Oklahoma are built with local funds, with little or no Federal money involved, the impact of the Federal Davis—Bacon Act cannot be overlooked. In May 1981, an amendment to the State law established that the prevailing wage scale used for the Federal Davis—Bacon Act be used for State projects also.

Thus, in order to determine the prevailing wage of any area, guidelines of the Federal law are used. Perhaps those who suffer

most from the problems connected with this act are school districts and schoolchildren.

Oklahoma schools are caught in a catch-22 situation. By law, they must educate the students and, by law, they must operate the school in the black and, by law, they must limit the number of students in each classroom. However, at the same time, building costs are paid primarily by ad valorem taxes and the bonding capacity for those taxes is limited by law to 10 percent of assessed valuation. In hundreds of cases, the legal bonding capacity does not permit the school district to build those needed classrooms. It is no wonder that school boards and administrators become extremely frustrated in their efforts to provide adequate classroom space.

The prevailing wage laws contribute to this problem by increasing. the cost of construction projects. There are basically two reasons for this: One, the so-called prevailing wage scale is not always the true prevailing wage scale of an area, but a higher scale. One school construction contractor is presently dealing with projects in several rural counties and has said that the average salary paid through prevailing wage is at least 50 percent higher than the true prevailing wage of that area.

A contractor in Oklahoma City even stated, "I pay bricklayers $12 an hour." On a recent public works project in this area, the bricklayers were paid $16.50 an hour. The bricklayers are not any better—just paid more.

The truth is, these workers are not two distinct groups, those who are paid regular wages and those who are paid the prevailing wage scale. They are often the very same workers. From this fact, it can be concluded that the prevailing wage does nothing to insure better construction. However, switching back and forth between two wage scales presents the second problem—that many local contractors decline to bid on projects for which they must pay prevailing wage because of resulting pay controversy of moving their crews back and forth between two pay scales.

This means less competition on bids and even more added expenses of moving an out-of-town crew to an area. How much money does this all add up to? This spring, the Oklahoma State Department of Education issued a detailed analysis of school construction costs. Their reports concluded with this statement: "Expressed as a percentage of total school construction cost, exempting schools from paying prevailing wage rates could result in potential savings of 14 percent to 23 percent."

Although there are no figures available on the amount of school construction going on in the State, a conservative estimate places the total at more than $50 million annually. So, you may conclude that the total cost of the prevailing wage for Oklahoma schools is, roughly, $10 million a year.

The taxpayers pick up the bill. And the product they buy is not worth it. For one reason, it does not guarantee better construction since, in many cases, it is the very same crew that would be building in either situation. No. 2, it is not needed to guarantee construction workers a livable wage. If that's so, teachers are living on a wage far below livable since the State teachers' salary scale begins far below that of the lowest paid worker on a prevailing wage scale. The minimum guaranteed salary for a teacher is

$12,000 a year, compared to approximately $20,000 a year for a laborer or as high as $38,000 for other construction workers.

Education money should go primarily for educating the minds of people and for paying those who do so. The ultimate irony of the situation is that many school administrators responding to a recent survey said they would contract more building projects if prevailing wage laws were not in existence. They are building by force account to get by. As one stated, "Union officials can believe otherwise if they wish. The fact is, prevailing wages are costing union members jobs."

Last week a California school district filed for bankruptcy. Must Oklahoma schools consider this as a possibility? In May a report, "A Nation at Risk," challenged schools to solve their educational problems. Our challenge is clear, our priorities precise. Taxpayers cannot afford the luxury of the prevailing wage law.

Senator NICKLES. Thank you very much. I appreciate your statement. We've been notified that we can get the House Chamber. At this time, I think it might be more convenient for everyone to move over there and so everybody has a chance to listen.

Thanks to everyone for your cooperation in moving over here. Maybe we'll be able to hear better also since we do have microphones in here.

Dr. Pettigrew, we appreciate your statement.

Mr. Butler, would you care to proceed.

Mr. BUTLER. I am Harold Butler, superintendent of Carnegie Public Schools in Oklahoma, speaking primarily for a lot of the rural schools here in Oklahoma.

We in the public schools are having to pay higher costs for our construction than in the private sector. How much more is going to vary from place to place in Oklahoma because of the location of contractors around the State and prevailing wages that are given for these areas.

We would simply like to have the law of supply and demand apply to the contracts. This allows every contractor to be fair to the work force that's available to them at that time. The situation that exists for many nonunion contractors is that they must pay highly inflated salaries for their employees. They have to pay the added wages for fringe benefits. They must also pay taxes above and beyond what the union contractors pay because those fringes are not subject to the same taxation.

Unions claim that quality of work is lost that's performed by those who do not receive these higher wages. There are many of us who feel that this simply does not hold water in those contracts where standards are set by the architect. Those standards must be met, no matter who is doing the work.

With those contractors who are involved with our current project, I found the percentage to be saved ranged up to 13 percent I, personally, feel this is not truly reflective because the project was bid with the prevailing wage laws in effect.

The problems encountered in this particular question are many times regional in nature here in the State of Oklahoma. The problems in rural Oklahoma are not exactly the same as those found in Oklahoma City and the other metropolitan areas. I do not know exactly how the prevailing wage rates are determined, but examina-

tion will show that many times, they are very nearly the same as union wage scales. In rural Oklahoma, there are just not as many union employees as there are in the metropolitan areas and, therefore, the problem is skewed to the disadvantage of the rural Oklahoma taxpayers.

I'd like to cite two or three examples from a survey that was done from rural Oklahoma. A little school in northern Oklahoma—by the name of Burlington received a bid for a small agricultural building that they were going to build, before realizing that they must pay the prevailing wages. The cost for that building, as bid by a local contractor, was $35,000. After rebidding the same project with the prevailing wage laws in existence, they found that their lowest bid came to $46,000, ranging up to a high of $66,000, with a minimum cost rise in that project of 31 percent. The Nowata schools report that many contractors in their area will not even bid on their projects because of the change in wages for their employees, and they have experienced employees that have been with them for a number of years and they do not want the fluctuating wage scales for their employees.

Inola schools reported that they have had to build on force account because they could not afford contractor building. Their savings by doing it in that manner saved them many times as much as 40 to 50 percent. The Maysville schools reported that they were forced to remodel instead of using new construction because of the cost and their remodeling projects have been inadequate for their needs.

The Marlow schools report that their figures show a 10- to 20-percent increase in cost because of prevailing wage law.

Senator, the provision in your bill which allows the use of a helper at a reduced wage rate and provision not to allow an imported wage scale to an area would certainly address two very critical problems that we experience in rural Oklahoma.

The architectural firm that we use at Carnegie, Locke, Wright, Foster, has informed me that they do projects consistently in the State of Arkansas and that Arkansas schools get a minimum of 10 percent more building for their tax dollar than does Oklahoma.

If that figure were correct—and we feel it's a minimum—the savings statewide would certainly be in the millions of dollars, dollars that the schools could use to be educating our children and that's all we ask for, just the same construction for our dollar as everyone else gets for their dollars.

Thank you.

Senator NICKLES. Thank you very much, Mr. Butler.

Mr. Atchley.

Mr. ATCHLEY. Senator Nickles, I am Jack Atchley, superintendent of Duncan public schools, Duncan, Okla. I appreciate the opportunity to address you concerning the Davis-Bacon Act.

Duncan public schools recently completed a contract with C&D Construction Co. from Ardmore, Okla., in the amount of $2,499,000, to add classrooms and remodel our elementary schools.

The same company, C&D Construction Co., is doing a construction job for HUD in Pauls Valley, a town less than 100 miles from Duncan. I'd like to give you a comparison of prevailing wages given

for the two jobs. These are areas using the same workmen in the same areas on both jobs:

On the Duncan job, a bricklayer, $14.74, in Pauls Valley, a bricklayer, $6.15; in Duncan, a carpenter, $12.45, in Pauls Valley, $6; electricians, $14.05 in Duncan, $6.62 in Pauls Valley; ironworkers, $14.60 in Duncan, $4 in Pauls Valley; laborers, $9.10 in Duncan, $3.78 in Pauls Valley; painters, $9.90 in Duncan, $5.40 in Pauls Valley; plumbers and fitters, $16.39 in Duncan, $6.65 in Pauls Valley; carpetlayers, $13.10 in Duncan, $5 in Pauls Valley; marble masons or tilesetters, $15.84 in Duncan, $5.25 in Pauls Valley.

It is difficult for me to believe that there is that large a difference in prevailing wage of two towns, same State, neither of which are metropolitan and less than 100 miles apart.

Our community voted a bond issue of $3 million to upgrade the elementary schools, although the project had to be postponed to the future because of the cost of plant remodeling and construction. We had wanted to place computers in our schools and upgrade the offerings for our students. This also would have to wait for the future.

The Davis-Bacon Act seems to me to be another act in the interest of special interests without taking into consideration the full effect that such an act makes on the schools and, ultimately, on the taxpayers who do not earn this type of salary.

Capital improvements in the school system are in such need that the State Legislature of Oklahoma is trying to develop some State aid to enable the districts to at least make school buildings safe for the students. Much more could be done in this area if not for the Davis-Bacon Act.

The Congress of the United States should either give the schools relief from this act or send funds to the schools in this State to offset the extra costs that it forces the schools to pay.

Thank you.

Senator NICKLES. Thank you very much, Mr. Atchley.

Mr. Meek.

Mr. MEEK. Senator Nickles, I'm Grady Meek, president of the board of education, Milburn, Okla. I am a district director of the State School Boards Association.

To those of us who are sincerely concerned about the quality of education and are charged with the responsibility of providing adequate classrooms, equipment, and the other essentials for balanced educational opportunities for our young people, there looms over the near horizon a very dark cloud.

In that cloud, we fear, is a threat that we are slowly but surely strangling our ability to provide equal opportunity for the students of our state because of the legislation passed by, perhaps, a well-meaning National and State legislation.

Foremost in that legislation is the Davis-Bacon Act that has been copied and passed in our own State. Today I speak in behalf of the many school board members who are quarreling over the budgets of a reduced income, trying to maintain the level of academic opportunities, provide classrooms for an expanding population, and refrain from asking our school district taxpayers to levy more taxes.

Perhaps this is more crucial in the rural part of our State, where we find many small school districts trying to maintain and hold on to small community concepts of education. Most of these schools have no oil, utility, or industrial avenue for revenues. Thus, the only way to repair or replace deteriorating buildings is to ask the taxpayers to pass a bond issue which, in many instances, brings a negative response.

Why should the young people of our State be penalized by being denied adequate facilities and learning tools because of an unfair law, promoted by a special interest group without regard to the hardship created by this law?

Today we hear from every government level, "Bite the bullet; take another notch in the belt." The boards of education and administrators are making every effort to reduce costs, eliminate waste, make each dollar go further, and that effort can be enhanced by the amendments to guarantee a fair and equitable wage law.

Thank you.

Senator NICKLES. Thank you very much, Mr. Meek.

Dr. Pettigrew, you mentioned the fact that many of the schools are finding that people would like to see a better quality of education. I think you also mentioned in your statement that you thought if we'd eliminate this type of regulation, we might be able to bring up additional resources for education. Is that correct?

Dr. PETTIGREW. We have surveyed the State schools of Oklahoma and, overwhelmingly, we hear that they are opposed to the prevailing wage law and they are telling us such things as, "We cannot build the classrooms we need because we cannot afford it." Or, "We have to leave out the science equipment. We can build the science lab but we can't afford to put the equipment in there." And, overwhelmingly, we hear that kind of problem verbalized.

Senator NICKLES. Mr. Atchley, didn't you say that you want to buy some computer equipment with the bond issue?

You mentioned a comparison between Pauls Valley and Duncan, two projects, and the differences in the wage rates. Was the Duncan project under Davis-Bacon?

Mr. ATCHLEY. Yes.

Senator NICKLES. Was Pauls Valley also under Davis-Bacon? There is a wide divergence in what was determined as prevailing wage. Were these comparable type of projects?

Mr. ATCHLEY. They were both building construction projects, one for the public schools and one for HUD.

Senator NICKLES. And this same construction company built both of them?

Mr. ATCHLEY. That's right.

Senator NICKLES. The one project in Duncan ended up paying two or three times as much as they had to pay for the one in Pauls Valley?

Mr. ATCHLEY. That's correct.

Senator NICKLES. Mr. Butler, you mentioned in your statement something about the law of supply and demand, which goes more to the economics. Many economics people, or people who study that, are opposed to this law. Many people get involved in this

thing about union or nonunion, but you mentioned the law of supply and demand.

You don't have any objection between management and labor, regardless of whether they are union or nonunion, negotiating what their wage scales would be. Your objection is that the Department of Labor will come in regardless of whatever they've already previously negotiated, and say arbitrarily, "You have to pay at least this amount".

Mr. BUTLER. That's correct. We've got no problems with management and labor. It's purely a matter of from contractor to contractor, having equal opportunity to bid on the projects.

Senator NICKLES. In some cases the Department of Labor would come in with a very high wage rate. Then you might have a company, whether it would be like this one construction company based out of Ardmore, that may not want to bid on another project because they find on this project they are paying this amount. Here's what they've negotiated, quite possibly by union contract and they work under, say, non-Davis-Bacon projects a great percentage of the time, then if they do a Federal project you have a different wage scale that is slightly different, and tomorrow they go back to another project and you have that flipping back and forth.

That type of problem might cause a contractor to say, "No, I just won't bid on it." So you have less competition and maybe less interest. If you have less competition, you'll probably have higher prices.

Mr. BUTLER. We've heard that statement from different contractors, yes.

Senator NICKLES. Mr. Meek, you mentioned, coming from Milburn Public Schools, the problem of importation. I think we've heard all our panelists mention this to one degree or another, particularly in the more rural areas of the State, where they would be bringing in the concept of prevailing wage. If that were acceptable, it might not be so bad. If they brought in a prevailing wage that was prevailing in Oklahoma County or Tulsa County, it might be far in excess of what you might be able to pay, say, in Caddo County or Grady County or some other county.

Mr. MEEK. About twice the amount.

Senator NICKLES. Usually about twice?

Mr. MEEK. Right.

Senator NICKLES. Which is quite a burden. Dr. Pettigrew mentioned many of these school boards and districts have limited resources, actually limited in some cases by statute, so they are confined. If you're importing from other areas, you could make those projects really not feasible or not possible. Then kids are deprived of that additional building or equipment, whatever it might be.

We appreciate your cooperation and input. Your statements will be added as part of the record. Thank you very much.

Our next panel represents the Creek Nation. They are Mark Downing, director of community services; Sam Whitlow, manager of environmental services administration, Okmulgee, and Ron Scott, supervisor, environmental health services, Okmulgee.

STATEMENTS OF MARK DOWNING, DIRECTOR, COMMUNITY SERVICES, ACCOMPANIED BY SAM WHITLOW, MANAGER, ENVIRONMENTAL SERVICES, AND RON SCOTT, SUPERVISOR, ENVIRONMENTAL HEALTH SERVICES, OKMULGEE, OKLA., A PANEL

Mr. DOWNING. My name is Mark Downing. I am director of community services for the Muscogee Nation and I have been authorized by the principal chief, Claude Cox, to present recommendations regarding the efforts to reform the Davis-Bacon Act with Senate bill 1172, on behalf of the Muscogee Nation.

In addition, I have accompanying me today two members of my staff that work in our environmental service administration, Mr. Sam Whitlow, Mr. Ron Scott. This administration within the tribe has had considerable experience with the Davis-Bacon Act and complying with the provisions and requirements of the act, in obtaining grants from the U.S. Department of Housing and Urban Development for the construction, primarily, in the past of four Indian community service centers which required the observance of the compliance with regulations of the Davis-Bacon Act. Both of these gentlemen will share their views shortly.

Having the environmental services administration under my supervision, I have had the opportunity to witness waste in our block grants because of the Davis-Bacon Act. Please allow me to give an example:

In 1980, when the Creek Nation built the first Indian community service center in the town of Wetumka in Hughes County, Okla., a county with one of the lowest median incomes in the State, the building cost approximately $55 per square foot, whereas the estimated average cost to construct the same type of building in Hughes County at that time was approximately $34 per square foot. Because of the requirement to pay prevailing wages, the Wetumka Indian community members had to settle for a building that was smaller than expected, along with certain items in the building plans having to be omitted because most of the funds went to the prevailing wages which, I might add, could not have been for the same Hughes County, where a carpenter's helper expected to earn at that time $5.75 an hour and not $9, or more, as the Department of Labor required.

The Muscogee Nation fully supports the proposed amendments in Senate bill 1172.

[Information supplied follows:]

In the context of potential growth rate and prospective employment opportunities the following data are instructive. A) Family medium income, B) Per capita income, C) Percentage of the population living on incomes below the federal poverty levels and unemployment rates. The following table, Table 2: Creek Nation, Indian Family Income Levels, by county will examine and identify the family median income levels, the income mean level, the per capita income level, and the percentage of families living below the poverty level.

Creek Nation, Indian Family Income Levels
By County

	Family Median Income Level	Income Mean Level	Per Capita Income Level	% Living Below Poverty
1) Creek	$ 6,185	$ 6,418	$ 1,448	30.84%
2) Hughes	3,732	4,592	1,140	52.91%
3) McIntosh	4,548	4,834	1,190	38.23%
4) Muskogee	5,178	6,226	1,804	32.20%
5) Okfuskee	2,608	3,822	819	67.09%
6) Okmulgee	4,782	5,298	1,372	41.32%
7) Tulsa	8,418	8,965	2,471	13.45%
8) Wagoner	6,652	9,320	2,163	13.73%
TOTAL	$42,103	$49,479	$12,407	289.01%
Avg/County	5,263	6,184	1,551	36.13%

Senator NICKLES. Thank you very much.

Do either of the gentlemen with you have any comments they wish to add?

Mr. DOWNING. Yes, they both have prepared statements, Mr. Chairman.

Mr. WHITLOW. I am Sam Whitlow, manager of the environmental services administration, which is under the division of community services for the Muscogee Nation, of which I am enrolled as a full citizen of the tribe.

I am grateful for the opportunity to express my views on the proposed legislation, on this particular act here.

In the past, our office has been required to construct centers which had to comply with the regulations of the Davis-Bacon Act. To my own view, I feel the wage rates established by the Department of Labor are really exaggerated to like $5 an hour for labor, increased to $10. It is really unfair.

Senator NICKLES. Is that skilled or unskilled?

Mr. WHITLOW. That's unskilled labor, a person with no education, no experience in any type of work come out there and make $10 an hour.

That's about all I have to say.

[The prepared statement of Mr. Whitlow follows:]

HEARINGS

United States Senate

Committee on Labor and Human Resources

Subcommittee on Labor

S. 1172

TO AMEND THE DAVIS BACON ACT

Sam Whitlow, Manager

Environmental Services Administration

Muscogee (Creek) Nation

24-088 O—83——3

Muscogee (Creek) Nation
Office of the Administration
Division of Community Services

TESTIMONY ON S. 1172

Mr. Chairman, I am Sam Whitlow, Manager of Environmental Service Administration, which is under the Division Of Community Services for the Muscogee Nation, of which I am an enrolled full citizen of the tribe.

I am grateful for allowing me the opportunity to express my views on the proposed legislation to amend the Davis-Bacon Act.

As Mr. Downing has explained, our office had in the past, required contractors to follow the wage rates required by the Davis-Bacon Act. I personally feel that the wages established by the Department Of Labor are grossly exaggerated to where it makes me envious of a construction laborer who earns over ten dollars an hour for just assisting the lead worker. I for one feel that a worker should receive the existing wage rate established by the open market in the area of the project.

My greatest concern is for that laborer who receives $10.55 an hour for a job that will only last two to three months. While working on a government project, a worker is earning more than their usual wage because of the inflated wage rates, but when his phase of the job is completed, he must return to the real world of $6.25 an hour, which I firmly believe causes an undue hardship on the laborer's private or family life.

I am of the opinion that the DOL's "prevailing wage rates" are more of a hindrance to all those concerned than a beneficial aid for just compensation.

I thank you again for allowing this opportunity to air my views regarding S. 1172 and Davis-Bacon Act.

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Senator NICKLES. Thank you very much.

Mr. Scott.

Mr. SCOTT. Mr. Chairman, I'm Ronald Scott, supervisor, environmental services administration, operating for the Creek Muscogee Nation, an enrolled full citizen of the tribe.

I would like to express my gratitude for the opportunity to present testimony to the Labor Subcommittee regarding S. 1172, which would amend the Davis-Bacon Act. In reviewing the Senate Congressional Record dated April 28, 1983, in which legislation was introduced, the Muscogee Nation supports the proposed amendments that will reform the Davis-Bacon Act.

Although there undeniably is a nationwide movement to have the Davis-Bacon Act amended, it is the Muscogee Nation's position that the spirit of the act be retained. The Muscogee Nation recognizes the fact that certain assurances that concern wages paid must prevail during the construction phase of an activity that is funded with Federal funds.

But, on the other hand, such assurances must not create a situation that prevents a minority contractor from participating in a construction project or prevent any contractor from making a reasonable profit by bidding too low. Nor should a contractor bid their firm out of competition by inflating their bids, just to make certain that prevailing wage scales are met.

This act has surely become an albatross to contractors who must submit reasonable bids to make a reasonable profit and to tribal administrators and planners as they watch their community service centers shrink because of the Davis-Bacon requirements.

As I have stated earlier, although the Muscogee Nation generally supports the efforts to amend the Davis-Bacon Act, we concur completely on the second, third, and fourth proposed amendments, which are, respectively, the ban on imported wage rates, addition of a helper classification and the raising of the threshold from $2,000 to $100,000.

The Muscogee Nation also recommends that if a definition of prevailing wages be written into the act, the Muscogee Nation would then ask the Labor Subcommittee to consider using the term "comparable wages paid", as to prevailing wages. It is the Muscogee Nation's belief that if a formula is developed for a particular classification, for a particular area, a waiver should be granted if the tribal government or any administrative body using Federal funds shows to the satisfaction of the DOL what the comparable wages actually are in any given classification in any given area.

Again I would like to express my gratitude for allowing me this opportunity to make recommendations on behalf of my tribal government regarding S. 1172.

Senator NICKLES. Thank you very much, Mr. Scott.

A couple questions. You don't have any objection to the idea of prevailing wage. You do think there needs to be amendments to make sure if you're in Muscogee or some other area that we not import wage rates from outside that are well in excess of what's in your county?

Mr. SCOTT. Absolutely. And by using the term, "comparable wages paid" as to prevailing wages, I believe it gives the tribal gov-

ernment more flexibility and to show to the DOL what the actual wages are for a particular classification in an area.

Senator NICKLES. So by "comparable wages," you'd like to be able to say, "Well, in our Creek Nation, this is what we've been paying," or, "This is what the average wage is." You'd like something a little more in the prevailing wage of that area and maybe call it comparable wage instead of prevailing wage, but really get into what is actually being paid so you don't have the costs being mandated up here?

Mr. SCOTT. Absolutely.

Senator NICKLES. Let me ask a question of any of you. Are we talking primarily about housing projects or maybe some other community centers or this type of thing?

Mr. DOWNING. We're talking primarily about community centers at this point.

Senator NICKLES. And housing also?

Mr. DOWNING. Not specifically housing. There are some housing projects or rehabilitation of homes, that we do subcontract some of the labor there. Primarily, in these instances, four large community centers. I think the term "comparable wages" has more equity and more definition of what the intent of the act when it said "prevailing wage". I think it probably meant prevailing wage in a given area, which is a comparable wage.

But the inflated wage rates that apply in a metropolitan area certainly do not apply as a comparable wage for a laborer in a rural area. I do not mean that they should not make a fair profit and I do not mean that they should not make the earnings that their skill and labor deserves. However, it should be competitive in the local area.

Senator NICKLES. Have the people of the Creek Nation had workers that have been able to participate on these contracts? Have you had Creek Nation contractors be able to build these buildings?

Mr. DOWNING. Yes.

Senator NICKLES. I'm not sure the bill we've introduced is just exactly right. We're receptive to see if we can't make some improvements in the law as it is. I appreciate your suggestions, as well as the suggestions of others. That's how this process works.

Are you thinking if the change were made—if you had a comparable wage, the actual wage that was in that neighborhood that you've been paying for sometime—you'd be able to do more projects for the same amount of money?

Mr. DOWNING. Yes.

Senator NICKLES. Maybe employ more people who have possibly been unemployed in your tribe?

Mr. DOWNING. Definitely.

Senator NICKLES. Do you have much unemployment in your tribe?

Mr. DOWNING. Yes.

Senator NICKLES. How high is it, do you know?

Mr. DOWNING. I'd hate to give you an exact figure. I know it's above the general population but I'm not sure of the exact percentage. I can provide that information.

Senator NICKLES. If you have it, fine. I don't want you to do a lot of homework, but if you do have it, that would be interesting. Some

of the testimony you give parallels much of the testimony where people from Chicago who previously testified, wanted to change it in housing projects in Chicago. They had an extremely high unemployment rate in this area and the people in this housing project were not able to work on the housing project; they were not able to be involved in much of the more routine maintenance, et cetera, and their unemployment rate was very high and they wanted to participate. They were kept out of the market and not able to pull themselves up.

Mr. DOWNING. I might add that the small contractors on the rehabilitation work on housing, in many cases they do not have the cash flow, so to speak, to maintain their own administrative overhead to meet all the requirements that are demanded by the act.

On the other hand, the very large contractors, these contracts are so small, they are not cost-effective for them to even approach. So I feel like it's very detrimental to the small contractor.

Senator NICKLES. Kind of catch-22. The small contractor can't get into it and to the big guy it's not worth messing with.

Mr. DOWNING. Right. Certainly, we see this. However, complying with the formal bidding procedures, we certainly cannot discuss these types of things prior to the bid opening with the contractors. But over the years of experience, we've witnessed it time and time again. You have people who can do quality work, excellent contractors in the rural areas, very high skilled but because of the requirements in some cases, they realize that either they can't bid on a project that's a project they could actually do or that if they do and receive the bid, they may not be able to perform and, therefore, it sets them up for establishing a bad track record when it really is not giving an accurate picture of their status.

Senator NICKLES. What about the 18-year-old man that graduated, or maybe didn't graduate from high school, but he's interested in a job. He's unemployed right now in your tribe and you're going to build a community center or something along that line. Does he have any success in getting that job if they don't have a helper classification if the minimum is $9?

Mr. SCOTT. No, he would not be, because the contractors either bring their own contractors, have their own helpers, and so forth, and bring them in probably classified as journeymen instead of a helper because there is no such thing as a helper, laboror helper, in the wage rates that we receive on some of these projects.

Senator NICKLES. They don't even have a helper and here's a guy 18 years old, who really would like to get a job. They are building the community center to help your tribe but he doesn't have any luck in obtaining work.

Would he have any luck if he went directly to the contractor?

Mr. DOWNING. Possibly, yes.

Senator NICKLES. Do you have quite a few Indian's working on these contracts?

Mr. SCOTT. No, they've never had any work on these projects.

Senator NICKLES. Is there a law or something which mandates the percentage of Indian contracts that are going to be done by either minority or Indian tribes?

Mr. WHITLOW. The contractor furnishes information to us that he did make an effort to locate some Indian contractors or helpers along with other minority groups.

Senator NICKLES. Does that help you?

Mr. WHITLOW. To a point, yes.

Senator NICKLES. Do they end up hiring some?

Mr. WHITLOW. They do make an effort and they do notify us that they did and a lot of times, they do have a few. But I think it should be a lot more.

Senator NICKLES. You'd rather have more hired at $5 than a few at $9.

Mr. WHITLOW. Right. I'd rather see like 30 guys get $5 an hour instead of 2 or 3 making $10.

Senator NICKLES. I appreciate your comments and input. You're coming from the field where some of these contracts are. I think it's helpful for everyone to have a better understanding of what's going on.

One additional question: Does the Creek Nation act as a contractor itself?

Mr. DOWNING. We bid out all of the work at the present time, and intend to continue to do so.

Senator NICKLES. Thank you very much.

On our next panel we have Joe Johnson, president of the Oklahoma AFL–CIO, Parker Sneed, secretary-treasurer, Oklahoma State Building & Construction Trades Council, and Ben Hutchinson, Eastern Oklahoma Building, Construction and Trades Council.

I would like to let everyone know we will be reconvening at 1:45, at the conclusion of this panel, to hear the remaining panels.

Gentlemen, we appreciate your cooperation and interest in this legislation and look forward to your comments.

Mr. Johnson.

STATEMENTS OF JOSEPH JOHNSON, PRESIDENT, OKLAHOMA AFL–CIO, OKLAHOMA CITY, ACCOMPANIED BY H. PARKER SNEED, SECRETARY-TREASURER, OKLAHOMA STATE BUILDING, CONSTRUCTION AND TRADES COUNCIL, WITH WILLIAM SMEDLEY, PRESIDENT, OKLAHOMA CITY, AND BEN HUTCHINSON, BUSINESS MANAGER, EASTERN OKLAHOMA BUILDING, CONSTRUCTION AND TRADES COUNCIL, TULSA, A PANEL

Mr. JOHNSON. Thank you for the opportunity to testify on this very important piece of legislation.

As president of the Oklahoma AFL–CIO, representing approximately 110,000 members, of which some 25,000 are men and women in the building and trades, who served their apprenticeships to become skilled craftsmen in their various trades, I vehemently object to Senate bill 1172. The attempt to emasculate the Davis-Bacon Act in this manner is obviously another blatant attack on the backbone of this Nation, the working people, the very people who pay the taxes to keep this country great.

The purpose behind the Davis-Bacon Act is to insure that the economic power of the Government is not used to disrupt the wage patterns and labor standards of local communities. With the prevailing wage requirements, the contractors committed to paying

decent wages to keep qualified employees have an equal chance to compete for public projects.

In the absence of such laws, competition for Government projects could turn into a contest to see who can hire the cheapest labor in order to come in with the lowest bid. Who loses, Senator Nickles? The public loses because of poor quality work, because of the loss of skilled tradesmen, as the skilled tradesmen die off, the salary scale doesn't provide the incentive to become a skilled craftsman, because low wages to American workers doesn't provide additional tax revenue and because more wages means more purchasing power.

Prevailing wage promotes competition among contractors for more competent and productive construction workers, thus cutting completion time and provides for quality construction.

We strongly oppose and object to the 50 per centum rule. The 30 per centum rule serves the purpose, as it has since enacted by Congress.

Some forces argue for the abolition of the 30 per centum rule, claiming that a minority of the workers should not dictate the pay scale. Senate bill 1172 appears to embrace the same logic. It should be clear that union wages are higher than nonunion wages and in most areas, the majority of workers are nonunion. Thus, the resulting determination by average, would be a wage rate less than the union rate. We stand firm in our support of the 30 per centum rule and opposed the proposed 50 per centum rule.

We want the record to reflect that the Oklahoma AFL-CIO opposes the attempt in Senate bill 1172 to raise the threshold from $2,000 to $100,000 on projects. This is simply another attempt to undercut the living standards of workers. A worker employed on a job of less than $100,000 is not a second class citizen and should have the same protection as those who may be employed on a project above $100,000.

Senate bill 1172 is, without a doubt, another attempt to undermine the workers of this Nation, union and nonunion alike, because it would lower the living standard of both. It would further cripple the apprenticeship training of both union and nonunion training programs. Senate bill 1172 would place helpers under the complete control of the contractors, some of who have no concern or scruples in their conduct toward the employees. The Oklahoma AFL-CIO is opposed to the helper classification, or any other classification, that is not certified and approved by the Bureau of Apprenticeship Training.

The Labor Department has volume upon volume of files on violations of the Davis-Bacon Act and exploitation of workers. If Davis-Bacon is to be changed, it should not be crippled but, rather, strengthened in an effort to stop the abuse of workers and the public.

Labor participation in these hearings may be an exercise in futility but we intend to be counted and, perhaps, some of our concerns will be heard.

We recognize the problems the Reagan administration is having with the budget. However, Senator Nickles, we believe you could save more money and better serve the Nation by looking into the overcharges on Government contracts and the fraud within the

system. I wish to thank you for allowing me to briefly share with you some of the concerns the AFL–CIO has with S. 1172.

That ends my statement. I've got a few other things if I've got time to say them.

Two years ago, the AFL–CIO and various construction trades met with various construction industry leaders and worked out some compromise legislation on prevailing wage in Oklahoma. The Municipal League refused to work with us in deliberation on some of these problems they had and it appeared that they wanted all or nothing, and you cannot work out a compromise with a group like that.

It is my recollection that some compromise was reached even without their participation in the very areas that they are talking about here this morning. We are always ready to listen to legitimate complaints and have proven that real problems can be worked out.

If the nonunion contractors don't provide their wage information, it is not the fault of the union. Our people follow the intent of the law and that is why some of these wage rates are inflated in different areas more than they are in other areas. They simply do not provide that wage information to the Department of Labor.

It always appears that the target to lower costs is the workers. What's wrong with cutting the profits? Decent wages are not un-American.

Some of the figures of the percentage of cost that have been used this morning by some of the speakers are greatly inflated and labor is not the greatest cost of a contract.

I hear school officials today that one day encourage their students to prepare themselves to make a good wage. However, when you come back home, they want you to work for less. I don't think that's very consistent, Senator Nickles, and, again, I appreciate the opportunity to speak before this committee.

Senator NICKLES. Mr. Hutchinson.

Mr. HUTCHINSON. I'm Ben Hutchinson, business manager of the Eastern Oklahoma Building Trades Council, located in Tulsa.

I will have my remarks which I will read into the record on the efficiency of whatever this meeting is and also I need some additional comments because previous to sending you my statement, I got some additional information. So I will read this into the record.

Senator NICKLES. Since you have a very lengthy statement, I will be happy to enter that entire statement into the record and if you have some additional supplements you want to add to it, that's fine, too.

Mr. HUTCHINSON. Well, you'll have to get them off the record because I just got some of them this morning.

Mr. Chairman, my remarks, for the most part, are directed to the effects of the Federal Davis-Bacon Act and its impact upon construction cost.

There are four classifications of type of work which is predetermined under the Davis-Bacon Act. That is building, residential, highway and heavy. I will direct my statement to highway and heavy and wage rates that are predetermined for that particular type of work.

I have figures of Federal moneys that were obligated, expended or otherwise contracted for various projects in the State of Oklahoma, which come within the heavy or highway classification for years of 1980, 1981, and 1982. These figures are added together in millions of dollars: Federal highways and bridge construction, $264.2 million; airports grant, $28.5; Corps of Engineers, $197.2; and Corps of Engineers, Budget Authority Construction for seven dams, $122.9, which totals out to almost $613 million.

However, the fast breaking news that I got this morning, I found out how much the State had put into this, Senator, and in 2 years, it's over $1 billion. As a matter of fact, it's $1,000,082,000.

Senator NICKLES. Is that added to the $612 million or on top of it?

Mr. HUTCHINSON. That's added to the $612 million, which you get over $1 billion.

Senator NICKLES. $612 million from the Federal and another $400 million—something from the State?

Mr. HUTCHINSON. Yes.

The above figures do not account for various other projects that are federally assisted that are considered heavy or highway, such as drainage projects, local reclamation, ponds, pumping stations, sewage collection and disposal lines, sewers—sanitary, storm, et cetera—storage tanks, water mains, water and sewage treatment plants, other than buildings, fencing for highways and parking lots, resurfacing streets and highways, runways, taxiways, and many others. That has not been included in that billion dollar figure.

Attached hereto are three wage predeterminations: one for highway, which is statewide, one for heavy in Muscogee County and one for heavy in Tulsa County. I call your attention to the wage rates for laborers and mechanics as predetermined by the U.S. Department of Labor and also make the subcommittee aware that the Oklahoma Prevailing Wage Act directs the Commissioner of Labor to use wage rates prescribed by the U.S. Department of Labor. Therefore, the attachments reflect the Davis-Bacon rates.

Carpenters rates, which reflect $7 per hour; common labor, $5 per hour, et cetera, goes on down. It has been determined that the average construction worker works from 1,200 to 1,400 hours during a year. Therefore, a skilled carpenter employed under these wages would earn about $9,800 a year and a laborer, $7,000.

I think if the subcommittee would thoroughly investigate all moneys that are expended on heavy and/or highway by the Federal Government, States, cities, towns, and other public types of work, you will find the lion's share of contracts comes under these categories. I have only exposed the tip of the rock and, hopefully, you will pursue this suggestion.

July 1, 1983, the average weekly wage in Oklahoma is $324 per week, which results in a State average of $8.10 per hour and, again, I note with interest, carpenters, skilled craftsmen, $7 per hour.

I also note with interest concrete finishers, skilled craftsmen, $7.15 per hour, all of which is well under the average hourly wage rate.

It would therefore seem to me the Davis-Bacon average rates are, in fact, holding wage rates below average. The Davis-Bacon rates

have little, if any, effect on construction costs. That this subcommittee would suggest to the Secretary of Labor to, at the least, predetermine wage rates for laborers and skilled craftsmen comparable to the State average hourly wage.

I further feel that the public should be made aware that a construction worker employed on a highway project or dam construction or other types of highway or heavy work, that workers are not being paid the exhorbitant wages that have been indicated by some. This, I feel, would be in the public's interest and would certainly put to rest the myths that have been generated.

This is, basically, the end on the economic thing, Senator. However, I would like to introduce into the record the report of the President's Private Sector Survey on Cost of Construction.

Senator NICKLES. I will be happy to have that included in your statement.

Mr. HUTCHINSON. I would like to go just a little bit further on S. 1172 and bring out a point or two on it, if I may.

Senator NICKLES. OK.

Mr. HUTCHINSON. One of the most interesting things to me within this report is the fact that architectural and engineering fees, the private sector pays an average of 6.9 percent for architectural and engineering fees, while the Government pays 11.4 to 12.4 percent for the Army Corps of Engineers.

[The prepared statement of Mr. Hutchinson follows:]

2651 E. 21st St., Suite 405
Tulsa, Oklahoma 74114

EASTERN OKLAHOMA
BUILDING & CONSTRUCTION
TRADES COUNCIL

Phone (918) 742-3305
(918) 742 3306

STATEMENT

Ben Hutchinson, Business Manager
Eastern Oklahoma Building and
Construction Trades Council
2615 East 21st Street - Suite 405
Tulsa, Oklahoma 74114

SUBJECT MATTER: The effects of the Federal Davis Bacon Act and its impact on Construction Cost, and S.B. 1172

Before U. S. Senate Committee on Labor and Human Resources Sub Committee
Honorable Don Nickles, Chairmen:

Mr. Chairman:

My remarks shall be in the most part directed to the effects of the Federal Davis Bacon Act and its impact upon construction cost.

There are four classifications of type of work, which is predetermined under the D-B Act i.e. Building, Residential, Highway and Heavy.

I will direct my statement to Highway and Heavy and wage rates that are predetermined for that particular work.

I have figures of Federal monies that were obligated, expended or otherwise contracted for various projects in the State of Oklahoma, which come within Heavy or Highway Classification for years of 1980, 1981 and 1982. These are added together for those years in millions of dollars.

Federal Aid Highways and Bridge Construction and Repair	264.271
Airports Grants in Aid	28.500
Corps of Engineers	197.222
Corps of Engineers (Budget Authority Construction seven dams)	122.930
	612.923

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The above figures do not account for various other projects that are Federally assisted that are considered Heavy or Highway, such as Drainage Projects, Local Reclaimation, Ponds, Pumping Stations, Sewage Collection and Disposal Lines, Sewers (sanitary, storm, etc.) Storage Tanks, Watermains, Water and Sewage Treatment Plants (other than buildings, fencing (Highway) Parking Lots, Resurfacing Streets and Highways, Runways, Taxiways, and many other catagories.

Attached hereto are three (3) Wage Predeterminations.

One for Highway, which is Statewide, one for Heavy in Muskogee County, and one for Heavy in Tulsa County.

I call your attention to the wage rates for Laborer and Mechanics as predetermined by the U. S. Department of Labor, and also, make the subcommittee aware that the Oklahoma Prevailing Wage Act directs the Commissioner of Labor to use wage rates prescribed by the U. S. Department of Labor; therefore, the attachments reflect the Davis Bacon Rates.

Carpenters rates, which reflect seven dollars ($7.00) per hour, Common Labor, five dollars ($5.00) per hour, etc. It has been determined that the average construction worker works from 1200 to 1400 hours during a year; therefore a skilled carpenter employed under these wages would earn about $9,800.00 and a laborer $7,000.00.

I think if the sub Committee would thoroughly investigate all monies that are expended on Heavy and/or Highway by the Federal Government, States, Cities and towns and other public type of work, you will find the lion's share of contracts come under those catagories. I have only exposed the tip of the of the rock, and hopefully, you will pursue this suggestion.

July 1, 1983, the average weekly wage in Oklahoma is $324.00 per week, which results in a State Average of $8.10 per hour and again, I note with

interest, Carpenters (skilled craftsmen) $7.00 per hour. I also note with interest Concrete Finishers (skilled craftsmen) $7.15 per hour, all of which is well under the average hourly wage rate. It would therefore seem to me that Davis Bacon average rates are in fact holding wage rates below average; that Davis Bacon rates have little, if any effect on construction cost, that this sub-committee would suggest to the Secretary of Labor to, at the least, predetermine wage rates for laborers and skilled craftsmen comparable to the State average hourly rate. I further feel that the public should be made aware that a construction worker employed on a highway project or dam construction or other types of Highway or Heavy Work, that workers is not being paid the exhorbitant wages that have been indicated by some. This, I feel would be in the Public's interest, and would certainly put to rest the myths that have been generated.

S. B. 1172, my comments will be brief, and directed at helper classification. A helper classification has no place in the construction industry. Many years ago apprenticeship training was adopted by crafts, even before Congress established B.A.T. Through the many apprenticeship programs, which a great deal are self supported by labor organizations, the United States has been fortunate to have skilled quality craftsmen; however, there is no requirement that a helper be trained or qualified, once a helper - always a helper, no advancement, no training, and a low rate of pay. Perhaps, this may be legislating poverty. I would think and hope, after the Education Report was issued, and the dismal results of the study, attentions would be focussed upon training and education of our young people. Therefore, in my opinion, a helper classification would only serve one purpose, that being an employer would be afforded low wage labor, which could reflect a better profit, and at the same time offer no education or training.

ATTACHMENTS: (A) Haikey Creek, (Tulsa County) Local Protection (Heavy)

(B) CLARIFIER ETC, (Muskogee County) (Heavy)

(C) State Wide Highway Rates (Heavy)

Eastern

U. S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION

REQUEST FOR DETERMINATION AND RESPONSE TO REQUEST

(Davis Bacon Act as Amended and Related Statutes)

FOR DEPARTMENT OF LABOR USE

Response To Request

☐ Use area determination issued for this area

A

☒ The attached decision noted below is applicable to this project

Decision Number
83-OK-59

Date of Decision
6-13-83

Expires
10-10-83

Supersedes Decision Number

Approved

Raymond L. Kamiath

Director (Acting)
Division of Government Contract Wage Determinations
Wage and Hour Division

Requesting Official (Type name and signature)
Jack F. Harrison
JACK F. HARRISON, Auth Repr of Contracting Officer

Department; Agency, or Bureau	Phone Number
DA, Tulsa District, Corps of Engineers	FTS 736-7336 918 581-7336

Date of Request	Est. Advertising Date	Est. Bid Opening Date
1 June 1983	1 July 1983	4 August 1983

Prior Decision Number (if any)	Est. $ Value of Contract	Type of Work
	☐ Under ½ Mil. ☒ 1 to 5 Mil. ☐ ½ to 1 Mil. ☐ Over 5 Mil.	☐ Bldg. ☐ Highway ☐ Resid. ☒ Heavy

Location of Project (city or other description)
8 miles north from downtown Tulsa

County - Tulsa	State - Oklahoma

Address to which wage determination should be mailed. Must be complete and include ZIP Code. (Print or type)

Tulsa District, Corps of Engineers
ATTN: Labor Relations Officer
PO Box 61
Tulsa, OK 74121

RECEIVED JUN 24 1983

Wage Survey by Agency Attached	Wage Survey by Agency in Progress
☐ YES ☒ NO	☐ YES ☒ NO

Description of Work (Be specific) (Print or type)
Haikey Creek, Local Protection
Tulsa, Oklahoma

CHECK OR LIST CRAFTS NEEDED
(Attach continuation sheet if needed)

- ___ Asbestos workers
- ___ Boilermakers
- ___ Bricklayers
- X Carpenters
- X Cement masons
- ___ Electricians
- ___ Glaziers
- X Ironworkers
- X Laborers, *(specify classes)*
  - X Air Tool Operators
  - X Chainsaw
  - X Mason Tender
  - X Powderman
  - ___
- ___ Lathers
- ___ Marble & tile setters, terrazzo workers
- ___ Painters
- ___ Piledrivermen
- ___ Plasterers
- ___ Plumbers
- ___ Roofers
- ___ Sheet metal workers
- ___ Soft floor layers
- ___ Steamfitters
- ___ Welders--rate for craft
- X Truck drivers
- X Power equipment operators, *(specify types)*
  - X Bulldozers; Scrapers;
  - X Crane;Shovels; Dragline;
  - X Backhoe;Front end Loader;
  - X Motor Grader; Sheepsfoot, Rollers,pneumatic,steelwheel;
  - Other crafts
  - X Mechanics;Asphalt Oilers.
  - X Distr;Greasers; Farm Tractor
  - pneumatic;Mulch Bl...

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SF308 dtd 1 June 1983
Haikey Creek, Local Protection
Tulsa County, Oklahoma

DESCRIPTION OF WORK

1. The proposed construction consists of clearing, grubbing and removal of debris along Haikey Creek. There will be 140,000 c.y. of excavation of creek bed and this material will be used to construct an earthen embankment levee approximately 20' high and 9,800 l.f. in length.

2. Work also consists of construction of reinforced concrete outlet structure 20' tall and 7' 3" square, and concrete drop structure, with hand and flap gate controls.

3. There will be 8,100 c.y. of stone protection and 1,080 l.f. guard rail placed, and asphalt access road and culvert constructed for crossing the embankment. There will be turfing and seeding work performed.

4. The purpose of this work is for flood protection to housing additions in the area, and is not heavy dam construction work.

5. Estimated cost of this work is in the range of $2,000,000 to $2,500,000.

6. Recommend that heavy construction wage rates be predetermined.

HEAVY CONSTRUCTION

THE CONSTRUCTION OF ANY OF THE FOLLOWING STRUCTURES SHALL BE IN THE HEAVY CONSTRUCTION CATEGORY:

Antenna towers
Bridges (bascule, suspension, and spandrel arch bridges, bridges designed for commercial navigation, bridges involving marine construction and other major bridges)
Breakwaters
Caissons (other than building or highway)
Canals
Channels
Channel cut-offs
Cofferdams
Dams
Dikes
Docks
Drainage projects
Dredging projects
Electrification projects (not incidental to building or commercial project)
Flood control projects
Industrial incinerators (other than building)
Irrigation projects
Jetties
Kilns
Land drainage (not incidental to other construction)
Land reclamation
Levees
Locks
Pipelines
Ponds
Pumping stations (prefabricated drop-in units)
Railroad construction (not incidental to a building or commercial project)
Reservoirs
Revetments
Sewage collection and disposal lines
Sewers (sanitary, storm, etc)
Shoreline maintenance
Ski tows
Storage tanks
Swimming pools (outdoors)
Subways (other than stations and buildings)
Tipples
Unsheltered piers and wharves
Viaducts
Watermains
Waterway construction
Water supply line (not incidental to building)
Wells
Water and sewage treatment plants (other than buildings)

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100 - OKLAHOMA 2 - 3

	Basic Hourly Rates	Fringe Benefits
Carpenters	$7.00	
Carpenters helper	6.00	
Concrete finishers	7.15	
Concrete finishers helper	6.00	
Concrete rubber	6.05	
Electricians	14.05	
Electricians helper	9.56	
Form builder	6.60	
Form builder helper	5.70	
IRONWORKERS:		
Reinforcing steel setter paving and structures	6.63	
Reinforcing steel setter paving & structure helper	6.00	
Structural steel workers	6.50	
LABORERS:		
Air tool man	6.05	
Asphalt heaterman	5.75	
Asphalt raker	6.72	
Asphalt shoveler	5.13	
Form setter	6.60	
Form setter helper	6.35	
Laborers, common	5.00	
Pipelayers	6.95	
Powderman	6.20	
Powderman helper	5.35	
Vibrator (hand type)	5.00	
Manhole builder	7.06	
Mechanic	7.75	
Mechanic helper	6.50	
Painter	6.30	
Painter helper	5.25	
Piledrivermen	5.90	
Traffic signal installer	6.70	
Weighman (truckscales)	4.75	
POWER EQUIPMENT OPERATORS:		
Asphalt distributor	6.30	
Asphalt paving machine	7.25	
Bulldozer	7.58	
Cement unloading and machine operator	5.25	
Concrete paving machine	7.25	
Concrete finishing machine	6.60	

POWER EQUIPMENT OPERATORS-(Cont'd)	Basic Hourly Rates	Fringe Benefits
Concrete saw operator	$6.41	
Concrete batching plant	7.00	
Crane, clamshell, backhoe, derrick, dragline and shovel	7.50	
Crusher and screening plant operator	6.60	
Fireman	5.90	
FRONT END LOADERS:		
1 CY and less	7.00	
Over 1 CY	7.00	
Hoist	6.30	
Mixer (over 16 C. F.)	6.45	
Mixer (16 C. F. and less)	6.00	
Mixer (concrete paving)	6.60	
Motor grader operator	8.18	
Oiler	7.75	
Pavement profiler	7.25	
Power broom	5.85	
Pug mill operator	6.55	
Pumpcrete	5.90	
Roller (steel wheel)	6.60	
Scrapers	7.52	
Spreader boxman	5.25	
TRACTORS:		
Crawler, 80 HP and less	6.20	
Crawler, over HP	7.70	
Pneumatic	6.59	
Traveling plant	6.35	
Trenching machine	6.50	
Wagon drill	6.10	
TRUCK DRIVERS:		
Over 2 tons	6.44	
2 tons and under	6.00	
Tandem axle & semitrailer	6.14	
Lowboy	6.05	
Transit mix	5.00	
Winch	5.90	

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

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EMPLOYMENT STANDARDS ADMINISTRATION | AND RESPONSE TO REQUEST (and Related Statutes)

FOR DEPARTMENT OF LABOR USE

Response To Request

a. ☐ Use area determination issued for this area

B

b. ☒ The attached decision noted below is applicable to this project

Decision Number: 83-OK-35

Date of Decision: 4-12-83

Expires: 8-9-83

Supersedes Decision Number:

Approved

Raymond F. Kenneth

Director
Division of Government
Contract Wage Determinations
Wage and Hour Division

Requesting Officer (typed name and signature): Dorothy Welden for Dorothy Welden OE

Department, Agency, or Bureau: Oklahoma State Dept. of Health

Phone Number: (405) 271-7332

Date of Request: 3-31-83

Est. Advertising Date: 4-15-83

Est. Bid Opening Date: 5-17-83

Prior Decision Number (if any):

Est. $ Value of Contract: ☐ Under ½ Mil. ☒ 1 to 5 Mil. ☐ ½ to 1 Mil. ☐ Over 5 Mil.

Type of Work: ☐ Bldg. ☐ Highway ☐ Resid. ☒ Heavy

Location of Project (city or other description): Huskogee C-40-0573-21

County: Huskogee

State: Oklahoma

Address to which wage determination should be mailed. Must be complete and include ZIP Code. (Print or type)

RECEIVED APR 2 8 1983

Mrs. Dorothy Welden
Construction Grants Coordination Division
Oklahoma State Department of Health
P.O. Box 53551
Oklahoma City, Oklahoma 73152

Wage Survey by Agency Attached: ☐ YES ☒ NO

Wage Survey by Agency in Progress: ☐ YES ☒ NO

Description of Work (Be specific) (Print or type)
Contract No. 1: Clarifier; flood retaining wall; decant/concentrate return line(est. $665,000)- Heavy
Contract No. 2: Prefab pump station/force main(est.$400,000) Line work(est.$875,650)- Heavy

CHECK OR LIST CRAFTS NEEDED (Attach continuation sheet if needed)

- x Form Builder
- x Form Setter
- x Bricklayers
- x Carpenters
- x Cement masons
- x Electricians
- x Concrete Rubber
- x Pipefitter
- x Laborers, (specify classes)
- x Air Tool Operator
- x Mason Tenders
- x Morter Mixers
- x Pipelayers
- x Crederan
- x Reinforcing Steel Setter
- x Painters
- x Piledrivermen
- x Manhole Builder
- x Plumbers
- x Roofers
- x Sheet metal workers
- ___ Soft floor layers
- ___ Steamfitters
- x Welders--rate for craft
- x Truck drivers
- x Power equipment operators, (specify types)
- x Air Compressors
- x Bulldozers
- x Cranes, Derricks, Dragl.
- x SEE REVERSE SIDE FOR ADDITIONAL LISTINGS

(THIS REPLACES FORMS DB-11 & DB-11a)

STANDARD FORM- 308 JUNE 1972
U.S. DEPARTMENT OF LABOR
(41CFR) Subtitle A, Part 8

47

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HEAVY CONSTRUCTION

THE CONSTRUCTION OF ANY OF THE FOLLOWING STRUCTURES SHALL BE IN THE HEAVY CONSTRUCTION CATEGORY:

Antenna towers
Bridges (bascule, suspension, and spandrel arch bridges, bridges designed for commercial navigation, bridges involving marine construction and other major bridges)
Breakwaters
Caissons (other than building or highway)
Canals
Channels
Channel cut-offs
Cofferdams
Dams
Dikes
Docks
Drainage projects
Dredging projects
Electrification projects (not incidental to building or commercial project)
Flood control projects
Industrial incinerators (other than building)
Irrigation projects
Jetties
Kilns
Land drainage (not incidental to other construction)
Land reclamation
Levees
Locks
Pipelines
Ponds
Pumping stations (prefabricated drop-in units)
Railroad construction (not incidental to a building or commercial project)
Reservoirs
Revetments
Sewage collection and disposal lines
Sewers (sanitary, storm, etc)
Shoreline maintenance
Ski tows
Storage tanks
Swimming pools (outdoors)
Subways (other than stations and buildings)
Tipples
Unsheltered piers and wharves
Viaducts
Watermains
Waterway construction
Water supply line (not incidental to building)
Wells
Water and sewage treatment plants (other than buildings)

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100 - OKLAHOMA 2 - 3

	Basic Hourly Rates	Fringe Benefits
Carpenters	$7.00	
Carpenters helper	6.00	
Concrete finishers	7.15	
Concrete finishers helper	6.00	
Concrete rubber	6.05	
Electricians	14.05	
Electricians helper	9.56	
Form builder	6.60	
Form builder helper	5.70	
IRONWORKERS:		
Reinforcing steel setter paving and structures	6.63	
Reinforcing steel setter paving & structure helper	6.00	
Structural steel workers	6.50	
LABORERS:		
Air tool man	6.05	
Asphalt heaterman	5.75	
Asphalt raker	6.72	
Asphalt shoveler	5.13	
Form setter	6.60	
Form setter helper	6.35	
Laborers, common	5.00	
Pipelayers	6.95	
Powderman	6.20	
Powderman helper	5.35	
Vibrator (hand type)	5.00	
Manhole builder	7.06	
Mechanic	7.75	
Mechanic helper	6.50	
Painter	6.30	
Painter helper	5.25	
Piledrivermen	5.90	
Traffic signal installer	6.70	
Weighman (truckscales)	4.75	
POWER EQUIPMENT OPERATORS:		
Asphalt distributor	6.30	
Asphalt paving machine	7.25	
Bulldozer	7.58	
Cement unloading and machine operator	5.25	
Concrete paving machine	7.25	
Concrete finishing machine	6.60	

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POWER EQUIPMENT OPERATORS-(Cont'd)	Basic Hourly Rates	Fringe Benefits
Concrete saw operator	$6.41	
Concrete batching plant	7.00	
Crane, clamshell, backhoe, derrick, dragline and shovel	7.50	
Crusher and screening plant operator	6.60	
Fireman	5.90	
FRONT END LOADERS:		
1 CY and less	7.00	
Over 1 CY	7.00	
Hoist	6.30	
Mixer (over 16 C. F.)	6.45	
Mixer (16 C. F. and less)	6.00	
Mixer (concrete paving)	6.60	
Motor grader operator	8.18	
Oiler	7.75	
Pavement profiler	7.25	
Power broom	5.85	
Pug mill operator	6.55	
Pumpcrete	5.90	
Roller (steel wheel)	6.60	
Scrapers	7.52	
Spreader boxman	5.25	
TRACTORS:		
Crawler, 80 HP and less	6.20	
Crawler, over HP	7.70	
Pneumatic	6.59	
Traveling plant	6.35	
Trenching machine	6.50	
Wagon drill	6.10	
TRUCK DRIVERS:		
Over 2 tons	6.44	
2 tons and under	6.00	
Tandem axle & semitrailer	6.14	
Lowboy	6.05	
Transit mix	5.00	
Winch	5.90	

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

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WAGE DETERMINATION FOR

REFERENCE COPY ONLY

DATE ISSUED BY

Suite 118, State Capitol Bld
Oklahoma City, OK 73105
405/521-2401

POST IN PLAIN VIEW ON APPLICABLE JOB SITE

HIGHWAY

ALL CONTRACTORS TAKE NOTICE:

Title 40, Sections 198.1 – 198.12 of the Oklahoma Statutes makes it mandatory for all public bodies to specify in the call for bids the prevailing hourly rate of wages for all contracts and requires all prime contractors and subcontractors to pay not less than the prevailing hourly rate of wages including fringe benefits to all workmen for each hour worked.

Each prime contractor and subcontractor is required to keep an accurate record showing the names, addresses, social security numbers, work classifications, straight time and overtime hours, and occupation of all workmen employed by them.

The Oklahoma DOL will not recognize any apprenticeship or training program unless federally approved and each apprentice registered.

The Labor Commissioner has authority to audit payroll records. If after an audit, a workman was paid less than the prevailing hourly wage, the Commissioner will notify the contracting authority and the contractor of non-compliance. The contractor shall have ten (10) days after receipt of the notice to comply with the audit. If the contractor fails to comply, the contractor shall pay to the awarding entity fifty ($50.00) dollars each day for each violation until compliance is achieved.

Any order issued by the Labor Commissioner may be enforced by an action for injunction or mandamus.

STATE WIDE*
(OK83-4031)

REFERENCE COPY ONLY

	Bsc H/R
Carpenters	7.00
Concrete Finishers	*7.15
Concrete Rubber	6.05
Electricians	*14.05
Form Builder	6.60
Ironworkers:	
Reinforcing Steel Setter Paving & Structure	*6.63
Structural Steel Workers	6.50
Laborers:	
Air Tool Man	6.05
Asphalt Heaterman	5.75
Asphalt Raker	*6.72
Asphalt Shoveler	5.13
Common	*5.00
Form Setter	*6.60
Pipelayer	*6.95
Powderman	6.20
Vibrator (hand type)	5.00
Manhole builder	7.06
Mechanic	*7.75
Painter	6.30
Piledriver	5.90
Power Equipment Operators:	
Asphalt Distributor	*6.30
Asphalt Paving Machine	*7.25
Bulldozer	*7.58
Cement Unload/Machine Operator	5.25
Concrete Batch Plant	7.00
Concrete Finishing Machine	6.60
Concrete Paving Machine	7.25
Concrete Saw Operator	6.41
Crane, Clamshell, Backhoe, Derrick, Dragline & Shovel	*7.50

	Bsc H/R
Crusher/Screen Plant Operator	6.60
Fireman	5.90
Front End Loaders:	
1 CY and less	*7.00
Over 1 CY	7.00
Hoist	6.30
Mixer(over 16 C.F.)	6.45
Mixer(16 C.F. & less)	6.00
Mixer (concrete paving)	6.60
Motor Grader Operator	*8.18
Oiler	*7.75
Paving Profiler	7.25
Power Broom	5.85
Pug Mill Operator	6.35
Pumpcrete	5.90
Roller (steel wheel)	*6.60
Scrapers	*7.52
Spreader Boxman	5.25
Tractors:	
Crawler, 80 hp & less	6.20
Crawler, over 80 hp	7.70
Pneumatic	*6.59
Traffic Signal Installer	6.70
Traveling Plant	6.35
Trenching Machine	6.50
Truck Drivers:	
2 tons & Under	*6.00
Over 2 Tons	*6.44
Lowboy	6.05
Tandem Axel & Semi-Trailer	6.14
Transit Mixer	5.00
Winch	5.90
Wagon Drill	6.10
Weighman (truckscales)	4.75

* PROJECT DECISION OK83-4031; EFFECTIVE DATE 04/22/83.

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HIGHWAY CONSTRUCTION

THE CONSTRUCTION OF ANY OF THE FOLLOWING STRUCTURES SHALL BE IN THE HIGHWAY CONSTRUCTION CATEGORY:

Alleys
Base courses
Bituminous treatments
Bridle paths
Concrete pavement
Curbs
Excavation and embankment (for road construction)
Fencing (highway)
Grade crossing elimination (overpasses or underpasses)
Guard rails on highway
Highway signs
Highway bridges (overpasses, underpasses)
Guard rails on highway
Highway signs
Medians
Parking lots (not incidental to a building or commercial project)
Parkways
Resurfacing streets and highways
Roadbeds
Roadways
Runways
Shoulders
Stabilizing courses
Storm sewers (incidental to road construction)
Street paving
Surface courses
Taxiways
Trails

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Legal Record

BNA CONSTRUCTION
• RESIDENTIAL • COMMERCIAL • INDUSTRIAL • PUBLIC labor report

Vol. 29, No. 1435 June 29, 1983

The vice president of the Laborers' International [illegible] and an official of Durastone Flexicore in [illegible]ch 19[illegible] stated that "there would be a prob[illegible] if the comp[illegible] proceeded with the supply of cu[illegible] planks to be [illegible]as flooring for the project[illegible]or to the telephone [illegible] a shop steward of La[illegible]'s Local 315 told the Du[illegible]e plant manager[illegible] his members would refuse to [illegible] trucks going [illegible]e Natick jobsite. Local 315 repres[illegible] the Dur[illegible]ne workers. In the interim, picketers [illegible] tho[illegible]ness agent of Local 609 appeared at the [illegible] plant. Durastone ultimately cancelled the shi[illegible] of the planks.

During the second we[illegible] incident at the Natick jobsite, picketers stat[illegible]d themselves at the neutral gate carrying signs protesting [illegible]reatment of blacks and other minorities contending that they deserved higher wages. The picketing continued thereafter on a sporadic basis.

Abreen a[illegible]e project owners filed suits against the unions in March 1980 following the p[illegible]t's completion. After a four-day trial in Decembe[illegible]81, the court held the three unions jointly and severally liable. Abreen was granted more than $120,000 in dam[illegible]s. Bernard and Wasserman were awarded more than $[illegible],000.

Cross Appeals

All of the parties appealed to the [illegible] Circuit. The court held that there was consi[illegible]e evidence to conclude that Local 609 failed [illegible]or its picketing to prevent unde[illegible]ure on [illegible]ntary employers. Picketing was not li[illegible] reserved gate, and the signs failed to ide[illegible]e union involved or the employer who [illegible] of the dispute. There was no eviden[illegible] the record, [illegible]urt says, to show that the p[illegible]ers ever sought to [illegible]ine which trucks were supplying goods destined for [illegible].

The evidence also was sufficient, according [illegible] to determine that the district council and [illegible]national were actively involved in the illegal [illegible] awarded to Bernard and Wasserman. Most of the [illegible]ction consists of additional financing [illegible]ges incurred by the owner as the result [illegible] delay in completing the project. "Damages [illegible] section 303 action cannot be speculative," [illegible]ng to the court.

Judge Breyer [illegible]n the [illegible]on by Judge Campbell. In a partial dissent, Peck submits that the lower court's findings [illegible]nout to impose liability against the int[illegible]onal [illegible]. "There is nothing to indicate fr[illegible]e circumstances [illegible]e telephone call that i[illegible] either intended as a [illegible] or perceived [illegible]," he says.

(*Abreen Corp. v. Laborers' International* [illegible] Nos. 82-1150, 82-1151, 82-1158, 82-1159, 82-1160, [illegible]191, 82-1206, June 14, 1983.)

(*Text of the First Circuit ruling appears at p. 605.*)

PRESIDENTIAL GROUP FINDS FEW INCENTIVES FOR CONTROLLING FEDERAL CONSTRUCTION

"... [T]he government always pays more than the private sector" when it buys construction services, a high-level task force report concludes after taking a look at federal construction procurement activities.

The reason for this, according to the Task Force On Federal Construction Management, part of the President's Private Sector Survey on Cost Control, is that there are few incentives for federal officials to hold down the cost of federal construction projects. The PPSSCC is also known as the Grace Commission after its chairman, J. Peter Grace, of W.R. Grace & Co.

The task force report notes at the beginning that it classified federal construction activity into two major types — direct construction, where the government contracts for its own fixed-asset needs, such as office buildings, military installations, and interstate highways; and grant programs, where the government shares costs for construction activities with local jurisdictions. In both types of construction activity, how-

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ever, the task force report declares that the government pays more than it should. The report states:

No Clear Priorities

"Federal construction activities are burdened by legislation with mixed goals unrelated to construction, resulting in a set of construction programs which do not have clear priorities. Managers of federal construction programs are charged with balancing political, economic, and other considerations in ways that are often impossible to reconcile. As a result, cost effectiveness and cost management are very often the lowest priority of all.

"Individual projects and entire programs have become burdened with costly requirements yielding low or marginal benefits to the public as a whole in response to demands by groups, individuals, and other federal agencies, most of which have little or no responsibility for the success and cost of construction . . .

"Because federal construction tries to meet mixed goals and is managed by personnel who are not rewarded for efficiency, it is inherently inefficient and more costly than it otherwise could be. Wherever the Construction Task Force could make a cost comparison between the private sector and the government, we concluded that the government always pays more than the private sector."

No Strong Reward System

In direct federal construction programs, the task force continues, "the compensation of the professional employees involved is in no way related to the actual efficiency of the activity for which they are responsible."

"This is reflected in the reluctance of construction bureaucracies to fully implement value engineering and performance specification concepts. There is simply no strong, clear reward system for efficiency in the federal construction programs," the task force states.

The report is critical of what it considers a shift from basic reliance on the private sector for needed goods and services. It is clear that "the policy of government reliance on private enterprise has been subjugated to cost comparison on a basis that tends to favor in-house performance," the task force states.

"Circular A-76 still contains a statement preferring the private sector, but cost effectiveness has gained increased importance as a matter of principle, and the many 'exceptions' that were allowed provided agencies with numerous justifications to conduct in-house activities."

More Contracting Out Urged

"Congress needs to reassert strongly the longstanding policy preference for contracting out." The need to give the policy the force of law "is obvious," the panel emphasizes.

The group recommends that a clear preference for the for-profit private sector should be reinstated in the Office of Management and Budget Circular A-76 and that deficiencies in the cost comparison procedures be corrected. It urged that any construction-related services currently performed by the federal government be contracted out.

The report notes that in 1973, the General Accounting Office attempted a comparison of engineering services costs between the private sector and the Defense Department. GAO found that for all private sector projects, the percentage for architects and engineering (A/E) services of the average construction cost was 6.9 percent as opposed to 12.4 and 11.4 percent for Army Corps of Engineers and the Naval Facilities Command, respectively.

How to Save $5.1 Billion

Overall, the task force report indicates, some $5.1 billion over three years could be saved if the following recommendations are implemented:

- Change various environmental procedures and requirements to save $863 million annually and $350 on a one-time basis. Many of these recommendations will also lower the construction cost of private capital investment.
- Reduce in-house federal engineering and design staffs and contract out to save $43 million annually.
- Increase use of performance specifications to save $400 million annually.
- Increase use of value engineering to save $300 million annually.
- Improve construction program and project management to save an estimated $50 million per year.
- Modify the Environmental Protection Agency construction grants program to rely more on private financing, thus leveraging federal dollars.

Some Inefficiency Inherent

The construction task force report comments, however, that some inefficiency in federal construction procurement is impossible to fix, since it is related to larger policy goals. It says:

"Many improvements and cost savings are possible . . . However, many of the problems in the federal construction program are intractable. The legislative mandates and directives imposed by the Congress are derived from concerns which are fundamentally legitimate and are not intended to always result in the lowest cost option."

What Is the Grace Commission?

The PPSCC was established by President Reagan

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in June 1982 by an Executive Order. The objectives of the group were specified as: (1) identify opportunities for increased efficiency and reduced costs achievable by executive action or legislation; (2) determine areas where managerial accountability can be enhanced and administrative controls improved; (3) suggest short- and long-term managerial operating improvements; (4) specify areas where further study can be justified by potential savings; and (5) provide information and data relating to governmental expenditures, indebtedness, and personnel management.

President Reagan's executive order also specified that the committee was to be funded, staffed and equipped "... by the private sector without cost to the federal government."

An executive committee under the chairmanship of J. Peter Grace was established, consisting of 161 high-level private sector executives, mostly chairmen and chief executive officers, from many of the country's leading corporations. The commission has employed about 1,600 volunteers whose time and expenses are estimated at $60 million. About 40 persons work full-time at the foundation administering the commission, which has been funded by corporate donations of $2.2 million. The Grace Company itself has spent over $500,000 on the effort, officials estimate.

So far the commission has released about 30 of the 38 planned reports.

[redacted]

DIVORCED PENSION AS COMMUNITY PROPERTY

The [redacted] Court refuses to [redacted] a lower court ruling [redacted] divorce proc[redacted] the California Community Pr[redacted] law [redacted] benefits accrued under a Carpenters' p[redacted].

In addition, [redacted] Employee Retirement and Security Act [redacted] by implica[redacted] llows an ex-spouse to g[redacted] court to enforce transf[redacted] the benefits under a community property law, the carpent[redacted] ex-spouse is also awarded those attorney's fee[redacted] curi[redacted] in seeking to enforce those rights in t[redacted] court.

The [redacted] issues, as framed by the Supre[redacted] Court, follow:

[redacted]e Questions Presented

Questions pr[redacted]ted were: (1) Is the di[redacted]ced spouse of a participant [redacted]n employee pensi[redacted] benefit plan covered by an ER[redacted] "participant" in [redacted] plan herself by virtue of provisi[redacted] of California [redacted]mmunity property laws, notwithst[redacted]g that s[redacted] is not included within the term "partic[redacted]t" as [redacted] used in the plan and that plan provides [redacted] no[redacted]ision, prospective pension, right or interest [redacted]ipant or pensioner shall be subject to any or[redacted]decree, execution, or other legal or equitable p[redacted]s or proceeding for benefit of such spouse di[redacted] to plan? (2) Is the divorced spouse of a part[redacted] ntitled to an award of attorneys' fees against [redacted] pe[redacted]n plan as a participant under ERISA §5[redacted] in [redacted]rriage dissolution proceeding under the [redacted]lifornia [redacted]mily Law Act in which the plan was [redacted]ered to [redacted] directly to the spouse community [redacted]perty share[redacted] a participant's pension benefit? (3[redacted] principles of [redacted]eralism recognized in *Young[redacted] Harris*, 401 U.S[redacted] (1971), apply to a case whe[redacted] fiduciary of an E[redacted]A plan has envoked exclu[redacted] jurisdiction of the f[redacted]al district court to enj[redacted]cts that violate ERISA [redacted] the terms of a plan [redacted] to obtain other appropria[redacted] equitable relief to r[redacted]ss such violations and enforce[redacted] visions of ERISA [redacted]d terms of the plan?

Petit[redacted]or certiorari filed Apr. 18, 1983, [redacted] Thomas E. [redacted]nton, Jr., Victor J. VanBourg, Jo[redacted]n & Stan[redacted] and VanBourg, Allen, Weinberg & Ro[redacted] all of S[redacted] Francisco, Calif.

[redacted]*ard of Trustees of Carpenters Pe[redacted]on T[redacted] Fund for Northern California v. Reyes*, No. 82-[redacted]697.)

24-088 91

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Senator NICKLES. Mr. Sneed.

Mr. SNEED. Senator Nickles, thank you very much for inviting us to testify on behalf of the Davis-Bacon Act. I have with me here Bill Smedley. Bill is the president of the Oklahoma Building and Construction Trades Council, and I'm the secretary-treasurer. Bill has agreed to let me speak for our organization.

We're appearing today on behalf of the members of the 15 national and international unions affiliated with the Oklahoma Building and Construction Trades Council.

Our basic message to you is that the Davis-Bacon Act continues to perform very important functions in protecting the interests of workers, contractors, and taxpayers. Rather than weakening or repealing the act, as you proposed to do in Senate bill 1172, this law should be preserved in full and its enforcement should be strengthened.

While we've been allowed 4 or 5 minutes to make an oral statement, we've submitted a statement for the record which further explains our position. You have that.

Senator NICKLES. We appreciate it also.

Mr. SNEED. Now, however, we wish to impress on you the extent to which the Davis-Bacon Act has played an important part as a segment of the national policy.

The first little Davis-Bacon Act was passed in Kansas in 1891. Currently, 37 States have such protection, including Oklahoma.

In 1927, the first Davis-Bacon bill was introduced by Robert Bacon, a Republican banker from New York. He emphasized the need to maintain local wage standards and to stabilize the industry in order to insure labor standards.

When President Hoover signed the Davis-Bacon Act into law March 3, 1931, it enjoyed wide bipartisan congressional support, as well as endorsement from the Labor, Treasury, and War Departments.

When the U.S. district court upheld the Davis-Bacon Act last December, we saw three prominent benefits being carried out to the next generation. Although the appellate court's ruling appeared to negate some of the findings of the district court, we believe these benefits will ultimately be retained.

The first benefit is to the worker, who is insured that the Federal funds will not undercut his local prevailing wage. The second benefit is to the contractor, who is assured a fair competition and a large supply of skilled workers. The third and most important benefit is to the public, who is guaranteed fair construction, based on good management, good engineering, good design, and good craftsmanship because of the superior training program that the union provides.

The position that the union had taken on Davis-Bacon had been the position which Congress and the courts have approved and upheld until this recent appellate court ruling and as we have indicated, it will require study to determine its intent and our subsequent action.

Former Supreme Court Justice Brandeis once said, "Lower wages do not necessarily mean cheaper wages."

Open shop does not mean that the end cost will be lower. Anyone who has been remotely involved in construction knows that the use

of less than skilled labor results in long delays, high final costs, shoddy workmanship which results in high maintenance costs.

A study by the Massachusetts Institute of Technology Department of Engineering has concluded three things: Macroeconomic theory establishes that productivity is related to high wage levels; second, contractors have indicated by offering higher wages on a project, they can attract workers with more training experience; and three, when union journeymen are used on a project, less supervision is needed as with comparable nonunion projects, thereby cutting overall costs.

Again, we wish to reemphasize the Oklahoma Building and Construction Trades Council's opposition to Senate bill 1172, gutting the Davis-Bacon bill, increasing wage determination to 50 percent, including helpers and wage determination, and increasing the threshold value of the project to $100,000 is not acceptable to building tradesmen in Oklahoma. And will, no doubt, be unacceptable to the Members of Congress.

I thank you for this opportunity to speak. I haven't been given, I believe, as much time as the others. I would like to mention a couple things.

Senator NICKLES. Go ahead.

Mr. SNEED. It's a rather strange thing to me, when we know by figures released that onsite labor costs have been determined to be somewhere between 17 and 20 percent of the total cost of the project, seems impossible to save 14 or 15 percent of the total cost of the job on wages alone, to say nothing of 50 to 100 percent, as we've heard today.

Let me further say that there is a difference in the building trades and the residential rates, as has been mentioned. They are one of the classifications. And when a school building is built, it falls under the building and construction rates. And rightly so.

When a residence is built, it falls under residential. The job in Pauls Valley was a HUD project, residential. The wage rates were specified by the Federal Government. That's why they were paid. Wage rates on the Duncan job was a school building. Our children go to those schools, we want the best. We hope we have the best teachers. We feel that if the boards of these schools that have appeared were as concerned about educating our children as they are about building more buildings and saving money at the expense of the workers, our children would be better served.

Thank you.

[The prepared statement of Mr. Sneed follows:]

STATEMENT OF H. PARKER SNEED, SECRETARY-TREASURER, OKLAHOMA BUILDING AND CONSTRUCTION TRADES COUNCIL

Senator Nickles, thank you very much for inviting me to testify on behalf of the Davis-Bacon Act.

My name is H. Parker Sneed. I am the Secretary-Treasurer of the Oklahoma Building and Construction Trades Council. I am appearing here today on behalf of the 13,000 members and the 15 national and international unions affiliated with the Oklahoma Building and Construction Trades Council.

My basic message to you is that the Davis-Bacon Act continues to perform very important functions in protecting the interests of workers, contractors, and taxpayers. Rather than weakening or repealing the Act, as you propose to do in Senate Bill 1172, this law should be preserved in full, and its enforcement should be strengthened.

Senator Nickles, as you well know, there are currently six House, and one Senate bill which would gut the Davis-Bacon Act. I believe the motive for such legislation rests on an erronious misunderstanding of the history, the implementation, and the protection which the Davis-Bacon affords.

The original purpose of the Davis-Bacon Act was to provide preferential consideration to local contractors and local workers whenever a federally funded construction contract was awarded. The first prevailing wage legislation was enacted in Kansas in 1891.

In 1927, Congressman Robert Bacon, a Republican from New York, introduced the first federal prevailing wage act (H.R. 11141, 70th Congress, 1st session) in the House, and Senator David Walsh of Massachusetts introduced a similar bill (S.3561, 70th Congress, 1st session) in the Senate that same year. These bills were coined under the term local preference, in light of the fact that the unregulated nature of the contract bidding which occured at that time had a destabilizing effect on the area.

Congressman Bacon's main concern was with a contract awarded for the construction of a veterans hospital which had been granted by underbidding the competition through low wages. The Congressman noted the destabilizing effect this method of underbidding had:

"Of course, that meant that the labor conditions in that part of New York State where this hospital has to be built were entirely upset. It meant that the neighboring community was very much upset."

In Bacon's view, the very least the federal government could do when engaging in construction work was to comply with the local standard of wages prevailing in the locality where the building construction was to take place. In drafting his bill, Bacon sought to stabilize the community standards by defining the prevailing local wage so that the

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federal government might adhere to it.

Similar prevailing wage legislation was introduced again in the 71st Congress -- still prior to the great depression. This time Bacon won strong support from the Department of Labor. In a memorandum to Labor Secretary James J. Davis, a Republican, the Commissioner of Labor Statistics, Ethelbert Stewart, points out: "The essence of the thing as I see it is the government willing for the sake of the lowest bidder to breakdown all labor standards and have its work done by the cheapest labor that can be secured?"

Although the concept of prevailing wage was growing, it didn't enjoy wide support till 1930 when James J. Davis, the Republican Secretary of Labor for nearly a decade, was elected to the U.S. Senate from Pennsylvania. Among his first acts in office was to introduce prevailing wage legislation; a companion bill to the Bacon bill in the House. The precise language of the Davis-Bacon legislation had been worked out by an inter-departmental committee representing all of the Departments of the Hoover administration.

William N. Doak, Davis' successor as Secretary of Labor, testified before the Senate Committee on Manufacturers tht current contracting practices were "not only disturbing to labor, but disturbing to the business community as well."

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The Committee report on the Davis-Bacon Act emphasized the Hoover Administrations' support for the legislation, and that builders from "throughout the country have advised the Committee that they favor the principle involved in this bill." The Committee report concluded: "This measure does not require the Government to establish any new wage scales in any portion of the country. It merely gives the Government the power to require its contractors to pay their employees the prevailing wage scales in the vicinity of the building projects. This is only fair and just to the employees, the contractors, and the Government alike. It gives a square deal to all."

The Davis-Bacon Act was adopted by both the House and Senate without roll call votes, and on March 3, 1931, it was signed into law by President Herbert Hoover.

The purpose of the Act in 1931, and now in 1983 is to insure that local labor standards are not undermined when the Federal government expends large sums of money on construction projects in a local community. The Act did then, and still continues to accomplish this purpose by requiring contractors and subcontractors engaged in construction, altering or repairing any public building or public work of the United States, to pay their employees the prevailing wages and fringe benefits or their cash equivalent, when such wages

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and fringes have been established by the local construction industry.

Obviously, local contractors and local workers are "protected" to the extent that locally established wage rates are recognized by the Federal Government as the minimum wages which can lawfully be paid on a project. The Act does not establish a preference for local contractors or workers; and this was never the intention of Congress.
Thus, the Davis-Bacon Act does not preclude any contractor from competing for federally funded construction projects in their locality. There are instances, however, in which a contractor decides not to submit a bid on a federally funded project in the locality where he normally does business.

The contractor's decision to bid may be influenced by the prevailing wage determination included in the bid specifications pursuant to the Davis-Bacon Act. Generally, this decision is caused by the fact that the contractor's established wage scale is below the prevailing wage in the locality and he does not wish to raise it.

The inconsistency between a local contrator's wage scale and the prevailing wage determined by the Secretary is usually attributable to one of two reasons. First, the wage scale established by the Secretary may not be the actual prevailing wage for projects of a character similar in the

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locality. In that case, the contractor, or any other interested party, may seek a review of the Secretary's wage determination pursuant to elaborate administrative review procedures established in 29 C.F.R. Parts 1 and 7. Second, and more often the case, the contractor's wage scale is simply lower than the actual prevailing wage scale in the locality. It is inevitable that some contractors in a locality are able to operate their businesses by employing mechanics and laborers at below the actual prevailing wage rates in the locality. Prevailing wage, after all, does not mean that every construction worker employed in a particular job classification in the locality, receives the identical wage rate. The prevailing wage is that wage rate which is most commonly paid to workers employed in a job classification on projects of a similar character.

Consequently, I believe that the Davis-Bacon Act is fulfilling its intended purpose whenever a contractor is forced to choose between raising his wage scales to the prevailing wage rates in the locality or foregoing the opportunity to perform federally funded construction contracts. This is not only fair and just to the employees in the local construction workforce, but also the contractors in the locality who pay prevailing wage rates and might be underbid simply on the basis of their unwillingness to pay

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less than the prevailing wage.

I can't emphasize enough the importance which the Davis-Bacon Act brings to the stability of a locality. One of the most vital aspects of American life is our sense of "community." The American spirit has always encompassed this sense throughout time, and throughout the nation, to give a feeling of belonging, of support for one's neighbors, and for the dignity and respect for work. By protecting the wages of workers in the construction industry, the insurance of family and community stability has resulted in a higher standard of living for all. The effect of substandard wages would crush a family's harmony, and would jeopardize community development and cohesion. The method in which Davis-Bacon is enforced is by no means perfect. Abuses are widespread. And it is the worker, his family, and his community which suffer.

It is the weekly payroll reports which the contracting agency uses to enforce the law as it is. Failure to enforce the law is an open invitation to contractors to underpay workers on a project. I feel that the Copeland Anti-Kickback Act, which requires the contractor to submit a weekly report, is not being enforced as it should be.

There has never been an effort to determine whether an efficient method of reviewing weekly payroll reports can be developed which enables contracting agencies to use them

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effectively for their intended purpose. This is probably attributable to the fact that many contracting agencies devote little or none of their resources to enforcement of the Davis-Bacon Act.

The problem could be rectified by having the contracting agencies develop procedures which make use of the weekly reports in an effective and effecient manner.

It is important to recognize this lack between reporting, enforcement, and protection of wages. The weekly reporting requirement should be strengthened because it is the only procedure which, if properly used, can effectively detect wage underpayments and deter potential cheaters from violating the Davis-Bacon and Anti-Kickback Acts. This is because the construction industry by nature is highly unstable, fragmented and dominated by small contractors. Employment is casual and workers do not have a permanent employment relationship with employers as they do in manufacturing and service industries. Many construction contracts are of short duration and once the contract has been completed, the contractor moves on to the next job which may be in another city or indeed in another state altogether. Many contractors and subcontractors maintain no permanent offices or headquarters in the locality where the construction is performed because of the transient nature of

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work in the industry.

The requirement that contractors make a weekly payroll record and regularly transmit that record to the contracting agency is particularly important under these unstable conditions. Experience indicates that even honest contractors may have difficulty retaining payroll records for extended periods of time because they are easily lost, destroyed, or scattered.

The requirement that the weekly reports of wage payments be transmitted to the contracting agency insures that they will be available for enforcement purposes long after the contractor has completed the project, regardless of his ability to maintain his records. The weekly reporting requirement also enables contracting agencies to detect wage violations during the term of contract performance. This is important because detection of underpayments and other violations of the Davis-Bacon Act before completion of the contract permits the contracting agencies to withhold payments to the offending contractors until the suspected violations are resolved. If, at that time, wage underpayments are confirmed, the withheld funds can be disbursed directly to the laborers and mechanics who were underpaid.

In spite of the mechanisms in place to regulate and enforce the prevailing wage laws, abuses in the construction continue to exist, which leads me to believe that continuation of Davis-Bacon

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and the Copeland Anti-Kickback Act is as necessary now as it ever has been. The fact that these unjust practices exist in the industry in the face of the Davis-Bacon Act is rather compelling proof that they would become widespread and rampant if the Act were eliminated or weakened. An examination of Davis-Bacon violations provides a good picture of the types of practices which would be commonplace if prevailing wage protections were reduced.

In 1979 alone, the Labor Department's Wage and Hour Division uncovered $11.3 million in the back wages owed to workers as a result of violations of federal prevailing wage laws, with the bulk owed under the Davis-Bacon Act. Behind this figure of $11.3 million are thousands of workers who were victimized and exploited by unscrupulous contractors. I am afraid some people dismiss this record of violations as just a matter of a worker getting paid, for example, $8.00 an hour rather than $10.00 an hour. But if I can accomplish anything here today, it would be to give this Committee a sense of what a Davis-Bacon violation does mean to a worker and his family. More often than not, a worker has not just lost a part of his wage, but has been subjected to a pattern and practice of abuse.

I want to emphasize that the vast majority of contractors are law-abiding and go to great lengths to comply with the law.

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But there is still a small percentage that will devise all types of schemes to cheat workers out of their fair wages. This exploitation goes further than simply not paying the prevailing wage. It sometimes meants not even paying the minimum wage or nothing at all. But those engaging in such practices, however, are only a small percentage of the total number of contractors, but their abuses will become rampant if not controlled.

The criticism which I receive about Davis-Bacon is as consistent as it is relentless. Perhaps the argument which crops up most often is the alleged "inflationary" aspect of Davis-Bacon. This is a very tricky and complicated issue if one is not a statistician of economist. The Congressional Budget Office, the General Accounting Office, and the Office of Management and Budget have each come up with their estimates that millions and even billions of dollars of the taxpayers money is being wasted by Federal construction jobs which would not be wasted if the money had been spent on similar private projects.

I want it fully understood that in the preparation of their analysis, none of the studies done by any of the groups listed above compare the costs of comparable federal and private projects and therefore, provide no basis for conclusions about 'millions and even billions of dollars that are spent on federal

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construction jobs that would not have been spent on similar private projects." There are, of course, a number of statements and reports which criticize the wage rates required under the Davis-Bacon Act or which argue that this law tends to increase public construction costs. Many of these have been sponsored or prepared by various groups which are now pressing for repeal of Davis-Bacon. These cost estimates should be treated with considerable skepticism, particularly since they are often not based on any factual data.

The principal empirical basis for most estimates of the inflationary impact of the Davis-Bacon Act is the 1979 study by the General Accounting Office. Several of the other so-called studies of the Davis-Bacon issue involve little more than a restatement of these findings.

Labor and construction industry officials have argued up and down on the GAO's study for years now. The facts remain, however, that the GAO report is fundamentally unsound and inaccurate. The core of the GAO's study involved an effort to check the accuracy of 30 Labor Department wage determinations through independent wage surveys conducted by GAO investigators. Any difference between the Labor Department wage determinations and the GAO survey results was taken as conclusive proof of Labor Department error. However, there are several other reasons to

expect the two sets of wage rates to differ. The GAO used a survey methodology which differed in important respects from that used by the Labor Department; the GAO indicated that it experienced difficulties in securing what it considered to be an adequate response to the surveys in some areas; and GAO personnel were inexperienced in wage survey procedures. All in all, there is no reason to believe that the GAO wage determinations data are any more reliable than the Labor Department's. In fact, the GAO figures are probably less reliable. In any event, there is no basis whatsoever for the GAO's conclusions about the cost impact of the Davis-Bacon Act.

Reports by the Congressional Budget Office are even less reliable than the GAO's. We are not aware that the CBO has made any studies of its own involving the Davis-Bacon Act. A couple of CBO reports on the Act contain estimates of cost savings which might result from its repeal; however, these reports provide no indication that the CBO has gathered any data on this issue. Rather, their estimates appear to be based on the GAO report discussed above. Also, the CBO has been cautious in its predictions about the effects of repeal, pointing out that Davis-Bacon seems to offer some benefits which may partially--or completely--offset its costs.

Similarly, the Office of Management and Budget has made various estimates of the cost impact of Davis-Bacon. I am not

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aware of the basis for any of these estimates and, thus, cannot offer any comments on them. OMB has not to my knowledge conducted any studies of its own to investigate the effect of the Davis-Bacon Act on public construction costs.

Several studies do exist, however, which support the viewpoint that the Davis-Bacon Act is not inflationary. This includes a 1976 report on Davis-Bacon by the Council on Wage and Price Stability; an investigation of the relationship between Davis-Bacon wage requirements and federal housing costs by the Department of Housing and Urban Development; a study of the relationship between school construction costs and prevailing wage laws sponsored by the Center to Protect Workers' Rights; data on project costs during the 1971 suspension of the Davis-Bacon Act; and finally, a Department of Labor response to the GAO study which refutes GAO's claims.

The Oklahoma Building and Construction Trades Councils applauds the decision by U.S. District Court Judge Harold Greene which prevented the Department of Labor from promulgating regulations to gut the Davis-Bacon Act.

I respectfully submit the lack of legal expertise in establishing comments both on the Court's ruling, and the ramifications of S.1172. I do, however, as a building tradesman

and Secretary-Treasurer of the Oklahoma Building and Construction Trades Council, know that if enacted into law, S.1172 would do great damage to the workers in Oklahoma, whose own families depend on the protection of wages through laws such as the Davis-Bacon Act. Shutting us out from this protection could wreak havoc on the thousands of building tradesmen in Oklahoma.

Oklahoma, like 37 other states, has their own "little Davis-Bacon Acts." It was enacted here in 1965, and on a county-by-county basis, has provided protection against the destabilizing effect of underbidding on State construction projects.

If the Davis-Bacon Act is gutted by increasing the wage determinations to 50 percent, including helpers in the wage determination, and increasing the threshhold value of the project to $10,000, hard earned gains will be lost; gains which ensure the stability of the construction industry, families, and the many communities in Oklahoma.

Everyone comes out ahead in Davis-Bacon. First, the worker is assured that his local, prevailing wage will not be undercut by an infusion of Federal funds.

Second, the contractor benefits by being assured of fair competition in bidding, and a large supply of skilled workers.

And third, the taxpayers, the citizens of Oklahoma, and the rest of the nation, benefit by being guaranteed better construction based on good management, good engineering, good design, and good craftsmenship because of the high standards which decent wages afford.

Senator NICKLES. Mr. Johnson, you mentioned two or three things I'm very interested in. Ben, you did the same thing on some reports. You mentioned the cost of engineering on Federal projects is about double that of private. Is that part of what you were submitting for the record?

Mr. HUTCHINSON. I submitted that for the record, along with the comment, hopefully, that the subcommittee will study that report and may alleviate so much pressures on saving money somewhere else.

Senator NICKLES. I commend you for that and will take a look at it to see what can be done.

A lot of times we run into this problem and some of it may be related to Davis-Bacon. Some of it may be related to engineering fees. You know, somebody says, "Yes, I can do something in the private sector that costs this much, but to do it for the Federal Government costs that much more." It could well be a lot of times the attention is focused on Davis-Bacon. I think that may be part of it. But it could be partly the engineering fees, and maybe part of the other rules and regulations that come down from Uncle Sam that just make doing work for the Federal Government that much more expensive than it is in the private sector or even on the State level.

I know when we got into this battle on the Senate floor about whether or not we'd increase the nickel tax, we had people say yes for the nickel gasoline tax. We had people come up and say, "Yes, if there is a highway project done under mandates of the Federal Government, it would cost as much as 20 or 30 percent more than what it would be if it was done by the State of Oklahoma." So there is a substantial amount of difference and, again, part of that may well be under the engineering sector or maybe even some other areas of inflated costs.

Mr. Johnson, you mentioned a couple things. I think you said Congress should be looking not just at Davis-Bacon, but also, at overcharges in contracts and maybe open ended contracts, and contracts that greatly exceeded the original contract amount. I think you're on target there also. In the past, many times the Federal Government has had a contract and it ends up costing two or three times as much as intended originally. If we can find out how tighter contracting procedures can be remedied, I agree with you. I think those should be addressed, and if there are mistakes by management in those firms, they should have to chew those cost increases, also. I think we've had a tendency where the Federal Government has been too complacent with spending money, been too open ended on those contracts.

You also mentioned some of the figures which were given earlier that might be inflated. If you have suggestions which would change those figures or any alternate or different figures, we're receptive to those. We will be totally open and receptive to your comments. If you think something has been stated incorrectly, we'd like to know.

Basically, the entire panel said you didn't like the bill as introduced. The court recently pretty much adopted most everything in this bill, as far as saying we wouldn't have importation wages. The

U.S. court of appeals did not touch the threshold issue. If the threshold issue is changed, it can only be done by legislation.

Incidentally, the $2,000 limit, if I remember, was the original figure that was put into the act in 1931. We've been visiting with several labor leaders in Washington, D.C., and some have said, yes, that they would be agreeable to changing that threshold. They may not want to go to $100,000, but there has been some willingness to negotiate and I've been encouraged by that kind of attitude. I realize there are pluses and minuses that you may see on the prevailing wage rate.

I think you will see changes by the court's action. I hope we can come up with changes that will be fair. If the threshold was $2,000 in 1931, most people would agree that some adjustment could be made. We shouldn't need to have the Federal Government come in and set the wage rates on a very small project. It costs more than the project's worth in a lot of cases, so I think we can use some commonsense.

The same thing for this importation of wages. I don't think the concept of prevailing wage is going to be thrown out. If people want to say the prevailing wage is going to be prevailing, it ought to be prevailing in that area and not have higher wages mandated on some of the local groups.

Mr. SNEED. Senator, I would say, now, that contrary to what has been said, the law now requires that local wage rates be that which prevails in the locality and that the big city rates will not be used to predetermine those wages. So that's already in the law and I don't understand.

Senator NICKLES. Has that been the practice, though?

Mr. SNEED. Well, I'd say for a year or so. When did it go in, Bill?

Mr. SMEDLEY. Well, the process that they follow——

Mr. SNEED. Well, just checking with my colleague, in that regard, just let me say we all understand that inflation has greatly eroded the value of the dollar since 1931, and, of course, we're in the business of negotiation, but from $2,000 to $100,000 probably exceeds the rate of inflation of our country in that period of time.

We have a number of contracts that would fall through the cracks with this. Particularly, painting contracts are very much labor oriented and, of course, the smaller jobs for any craft that might be involved.

Senator NICKLES. Let me ask you another question, Mr. Sneed. Do you represent the trades council in Oklahoma City?

Mr. SNEED. Yes.

Senator NICKLES. What percentage of those contracts is labor? I think you touched on it.

Mr. SNEED. The total cost of the onsite job?

Senator NICKLES. Yes.

Mr. SNEED. Onsite labor is covered under the Davis-Bacon Act. That work away from the job site can be at any wage rate, well, whatever it floats at. So what we're trying to protect and what the law is designed to protect are those workers working on that job in that area. So only the labor cost on that job are covered by the Davis-Bacon Act.

Now, if the total labor cost on a job will run, as it has been estimated across the country, from 17 to 20 percent of the total cost of the project, how——

Senator NICKLES. So you're saying about 17 percent. That's what I thought I heard, but that seemed awful low. Let me ask you a couple of questions.

If you're going to build a post office and you have a lot of brick and mortar and steel, how much of that would be materials and how much of it would be labor? Do you have any idea?

Mr. SNEED. No, I don't. But I will say this, Senator: There are figures out, so these have been run.

Senator NICKLES. I will try and find that out. That's interesting.

Mr. HUTCHINSON. Senator, we worked on a market recovery program with the employer and a building will run less than 20 percent labor. Office buildings and post offices will run——

Senator NICKLES. Does that mean the balance of it is material?

Mr. HUTCHINSON. Materials, land. The actual structure is 20 percent labor and 80 percent—20 percent for labor, depending on the structure.

Senator NICKLES. We will try and get into that a little further because I think we need to know. We have Federal gosts going out the roof and that's one of the reasons why I think there is an interest in Davis-Bacon. People everywhere, myself included, are trying to figure out how to cut Federal dollar spending. There is no other choice. We're bankrupting this country.

You all mentioned some other suggestions that should be looked at, as well, and I appreciate that.

One final request would be to keep the line of communications open. Let's continue to work on this with our subcommittee. I think our efforts have been very positive to the working men and women of this country. I'm thinking along the areas that we've already passed in the Senate. I hope we will be able to pass, in the not too distant future, our legislation in the House that deals with longshoremen, and the Labor Management Racketeering Act. I think this legislation will benefit the people of this country.

We found cases where people, either from the management side or from the union side, were managing some of these pension funds and others that were misusing and taking money and investing it in the wrong way. The workers were coming up short. We were able to work those things through the Senate, basically, without any objection.

I would hope that our office and you will be open for communications to see if we can come up with ideas which would be positive and beneficial for the creation of jobs. I would like to see a good climate in the working system so more people can get jobs and more people can have better opportunities. I think that's important to get our country moving again. I concur with a couple statements that were made. We don't want to do something that would be negative to the working people of this country. I concur with that 100 percent. Those are the people paying the taxes and building America.

I don't agree with the concept of the Department of Labor to come in and say where you have a prenegotiated contract, union or nonunion, where management and labor have gotten together and

said, "Here's what we're going to do," then say, "Well, if you're doing it on a Federal project, we're going to mandate that you do something. We know better what should be paid than what you and your employees have been able to negotiate.' A little difference of opinion in overall concept, but I don't really perceive that. The Federal Government doesn't have the wisdom to be able to improve the policy between labor and management. I kind of like labor and management to be able to get together on their own without the Federal Government being involved and in some cases, not really helping. Anyway, that's my comment on that.

Do you have a comment to make?

Mr. HUTCHINSON. I want to mention something to you, something that might be most helpful.

Four or five years ago, the State of Kentucky made a survey on their State prevailing wage rate and the cost impact and this type of thing, and it was really an extensive study. They took small jobs, large jobs, took four sections of the State, and I think that would be quite acceptable and it tells you the cost of the building and even in the prevailing rates, how some employers employed it because they really don't have to pay their superintendents anything. Only the laborers and mechanics that actually perform the work gets the wages. So they go into that, they blow it up through supervision and all this. If you would get that and read it, I think it would be very enlightening.

Senator NICKLES. Could you get that for me?

Mr. HUTCHINSON. I will try to. Maybe I can get it out of the Department of Labor.

Senator NICKLES. The State of Kentucky?

Mr. HUTCHINSON. State of Kentucky. The Labor Commissioner, perhaps, may have a copy of it.

Senator NICKLES. We'll see if we can't find it. I would be interested in it.

Mr. HUTCHINSON. One more thing I want to enter into the record, outlining the type of work, all types of work that comes within the $7 an hour carpenter rates and this type of thing.

Senator NICKLES. Gentlemen, I thank you very much for your cooperation and input to the committee. I think you've been very helpful and very constructive.

We will recess. We will reconvene at 1:45 this afternoon and conclude this hearing. Again, I wish to thank all of you.

[Whereupon, the subcommittee was adjourned for luncheon recess.]

Senator NICKLES. Thank you for your patience and also your interest in coming back.

Our next panel is the Associated Builders & Contractors. Our first witness is Roy Hannaford, Roy Hannaford Co., Broken Arrow. Please proceed.

STATEMENTS OF OF ROY J. HANNAFORD II, ROY J. HANNAFORD CO., BROKEN ARROW, OKLA., ACCOMPANIED BY WILLIAM MITCHELL, EXECUTIVE VICE PRESIDENT, NEW ORDER CO., TULSA, OKLA.; ROBERT C. DUDLEY, JR., DERRICK CONSTRUCTION CO., INC., OKLAHOMA CITY, OKLA.; AND DAN COOPER, COOPER BROTHERS, INC., OKLAHOMA CITY, OKLA.

Mr. HANNAFORD. Thank you, Mr. Chairman. I'm Roy J. Hannaford II, president of the Oklahoma Chapter of the Associated Builders & Contractors. Appearing with me today is James Schlicht, ABC's director of government relations, and Dudley Mitchell, Oklahoma's executive director. On behalf of the nearly 17,000 member firms of ABC, I thank the committee for the opportunity to present our views on the Davis-Bacon Act and the need for immediate amendment of that act.

Ultimately, we hope that this unnecessary, burdensome and inflationary law will be repealed.

Senator Nickles, we thank you for the introduction of Senate bill 1172, which contains four basic amendments to the Davis-Bacon Act. We endorse all the provisions in your bill and would like to comment on them at this time.

The current application threshold of $2,000 is totally outdated, since this figure has been in effect since 1935, and provides no exemption for small business contractors. ABC supports Senator Nickles provision in Senate bill 1172 to raise the application threshold from $2,000 to $100,000. This provision, alone, would provide savings of $237 million over the next 5 years to the Federal taxpayer, according to the U. S. Congressional Budget Office.

However, we would recommend that the threshold would be even more beneficial if it were raised to $1 million per contract. Testimony given before the Senate Small Business Committee in February 1982, indicates that a $1 million threshold would exempt 85 to 90 percent of all Federal construction contracts while only exempting 15 to 20 percent of the total Federal dollars obligated for construction.

Raising the Davis-Bacon application threshold to $1 million will encourage many small businesses to participate in the Federal marketplace, which will enhance competition, reduce costs to the taxpayer and provide new job opportunities.

We also support the provision in Senate bill 1172, which would provide for a helper classification on the Davis-Bacon projects. This would enhance competition, as it would make Federal construction projects work practices more consistent with those practices widely used throughout the entire construction industry today.

Consequently, on Federal work, employees who are normally classified as helpers and who are generally entry-level employees learning a trade, must be paid the journeyman wage for the trade in which he is being trained. The alternative is to replace the employee with someone who has achieved journeyman status. As a matter of simple economics, the contractor will opt for the worker who is more worthy of the higher journeyman rate.

The Federal Government, in its procurement practices and policies, should encourage contractors to be competitive by utilizing an employee to the full extent of his attained skill level and not at a

fraction of his capacity by using a high paid journeyman to do what a helper is capable of doing.

Unskilled or partially skilled workers can be trained to perform a particular task within a craft without being qualified in all skills of a fully qualified journeyman.

Contractors should be urged to utilize any classification of workers to perform tasks within their attained skill levels. This provides more opportunity for underutilized minorities, females, handicapped, young workers, and those traditionally limited in the working force. It provides an incentive and opportunity for ambitious workers to learn a craft, task by task, progressing on the basis of individual merit and at their own learning pace.

The inability to utilize helpers on Federal projects in a manner comparable to private work creates a tremendous increase in Federal construction costs. The CBO has estimated that insertion of a helper classification in the Davis-Bacon Act could provide budget savings of approximately $3 billion over the next 5 years.

Mr. Chairman, we applaud your provision in Senate bill 1772, which prohibits the importation of wage data between urban and rural areas in determining the prevailing wage rate. We consistently face the problem of paying higher wages than those actually prevailing in an area because the Department of Labor utilizes data from outside the county or local subdivision in which work is being performed.

A study performed by the Oregon State University Department of Economics in 1981, estimated the effect of the Davis-Bacon Act on construction costs in rural areas. The results of their date indicate that the impact of the Davis-Bacon Act increases cost from 26 percent to 38 percent, primarily by raising wages.

The average increase was 34.1 percent for carpenters and 45.2 percent for laborers. Furthermore, the study shows that the results of the Davis-Bacon Act work contrary to the actual intent of the law, that the act is not preserving jobs for local contractors in any way. Only 28 percent of the contractors on Davis-Bacon projects were from the same county or local subdivision in which the project was located, compared to 47 percent for private projects.

We favor the fourth provision in your bill which would statutorily define the method of determining the prevailing wage. This method would use the 50 percent, or more, measure to determine prevailing wage, or if no majority, then a weighted average.

Senator NICKLES. I wonder if I might interrupt you there and work our way through the rest of the panel and then come back with some questions.

Mr. HANNAFORD. Sure.

[The prepared statement of Mr. Hannaford follows:]

Statement of Associated Builders and Contractors, Inc.

Mr. Chairman, I am Roy J. Hannaford II, President of the Oklahoma Chapter of the Associated Builders and Contractors. Appearing with me today is James Schlicht, ABC's Director of Government Relations, and Dudley Mitchell, Oklahoma's Executive Director. On behalf of the nearly 17,000 member firms of ABC, I thank the committee for the opportunity to present our views on the Davis-Bacon Act and the need for immediate amendment of that Act. Ultimately, we hope that this unnecessary, burdensome and inflationary law will be repealed.

Senator Nickles, we thank you for the introduction of S. 1172 which contains four basic amendments to the Davis-Bacon Act. We endorse all the provisions in your bill and would like to comment on them at this time.

The current application threshold of $2,000 is totally outdated, since this figure has been in effect since 1935, and provides no exemption for small business contractors. ABC supports Senator Nickles' provision in S. 1172 to raise the application threshold from $2,000 to $100,000. This provision alone would provide savings of $237 million over the next five years to the federal taxpayer, according to the Congressional Budget Office (CBO). However, we would recommend that the threshold would be even more beneficial if it were raised to $1 million per contract. Testimony given before the Senate Small Business Committee in Feburary 1982 indicates that a $1,000,000 threshold would exempt 85 to 90 percent of all federal construction contracts while only exempting 15 to 20 percent of the total federal dollars obligated for construction. Raising the Davis-Bacon application threshold to $1 million will encourage many small businesses to participate in the federal marketplace -- which will enhance competition, reduce costs to the taxpayer and provide new job opportunities.

We also support the provision in S. 1172 which would provide for a "helper" classification on Davis-Bacon projects. This would enhance competition, as it would make federal construction projects' work practices more consistent with those practices widely used throughout the construction industry today.

Consequently, on federal work, employees who are normally classified as helpers and who are generally entry level employees learning a trade, must be paid the journeyman rate for the trade in which he is being trained. The alternative is to replace the employee with someone who has achieved journeyman status. As a matter of simple economics, the contractor will opt for the worker who is more worthy of the higher journeyman rate.

The federal government, in its procurement practices and policies, should encourage contractors to be competitive by utilizing an employee to the full extent of his attained skill level, and not at a fraction of his capacity by using a high paid journeyman to do what a helper is capable of doing. Unskilled or partially skilled workers can be trained to perform a particular task within a craft without being qualified in all skills of a fully qualified journeyman. Contractors should be urged to utilize any classifications of workers to perform tasks within their attained skill level. This provides more opportunity for underutilized minorities, females, handicapped, young workers and those traditionally limited in the working force. It provides an incentive and opportunity for ambitious workers to learn a craft, task by task, progressing on the basis of individual merit and at their own learning pace.

The inability to utilize helpers on federal projects in a manner comparable to private work creates a tremendous increase in federal construction costs. The CBO has estimated that insertion of a helper classification in the Davis-

Bacon Act could provide budget savings of approximately $3 billion over the next five years.

Mr. Chairman, we applaud your provision in S. 1172 which prohibits the importation of wage data between urban and rural areas in determining the prevailing wage rate. We consistently face the problem of paying higher wages than those actually prevailing in an area because the Department of Labor utilizes data from outside the county or local subdivision.

A study performed by the Oregon State University Department of Economics in 1981 estimated the effect of the Davis-Bacon Act on construction costs in rural areas. The results of their data indicate that the impact of the Davis-Bacon Act increased costs between 26 percent and 38 percent, primarily by raising wages. The average increase was 34.1 percent for carpenters and 45.2 percent for laborers. Furthermore, the study shows that the results of the Davis-Bacon Act work contrary to the actual intent of the law -- that the Act is not preserving jobs for local contractors. Only 28 percent of the contractors on Davis-Bacon projects were from the same county in which the project was located, compared to 47 percent of the private projects.

We favor the fourth provision in your bill which would statutorily define the method of determining the prevailing wage.

This method would use the 50 percent or more measure to determine prevailing wage, or if no majority then a weighted average.

However, we have reservations concerning the strength of the 50 percent rule on its own merit. We feel that this measure must be accompanied by two provisions. One, discussed earlier, is the provision prohibiting the use of metropolitan project data in establishing wage rates in rural areas and vice-versa. Second, which is not included in this bill, is the prohibition of data from federal projects in prevailing wage surveys. These two provisions would delete much of the bias still permitted by simply using a 50 percent rule.

One other provision which we feel needs to be addressed is the burdensome paperwork requirement associated with Davis-Bacon. Administrative costs resulting from the Act keep small contractors from even bidding on federal projects. Job classifications set by the Department of Labor often require a contractor to pay an individual two or three different rates on one project for the type of work he performs ordinarily. Eliminating the weekly payroll reporting requirement, as proposed by the Department of Labor in 1981, would save contractors at least $100 million annually.

Senator, we recommend that S. 1172 be amended or that a separate bill be introduced to amend the Copeland Anti-Kickback Act. That law requires contractors to furnish weekly statements with respect to wages paid each employee during the preceeding week. Although this provision is viewed as an enforcement tool, past testimony before this committee has indicated that such information is not utilized. We feel that the Copeland Act should be amended to replace the weekly payroll reporting requirement with a requirement that contractors file reports with the contracting agency at the beginning and at the end of the contract period.

Mr. Chairman, ABC feels that Davis-Bacon is a burden on merit shop contractors and on the American taxpayer. We believe in the free enterprise system to determine costs. Davis-Bacon creates restrictive and extraordinary work practices to a degree that approximately 60 percent of ABC members will not bid federal work. This law deters merit shop contractors from bidding on federal projects which comprise approximately 23 percent of the total construction market.

Davis-Bacon is unfair to the American taxpayer since it unnecessarily raises federal construction costs by at least $1 billion annually. If the Congress is serious about lowering our huge federal deficits, then they will amend, if not repeal, this inflationary and burdensome law.

Mr. Chairman, thank you for your support and for this opportunity to testify.

Senator NICKLES. Thank you very much.

Mr. Dudley.

Mr. DUDLEY. I'm Robert C. Dudley, Jr., a general contractor for the past 10 years, doing Federal work at Tinker Air Force Base, along with Oklahoma State and privately owned construction.

I've got attached here a comparison of two projects my company completed in 1982. One is a Federal project, Alter Officers Club, Tinker Air Force Base, using prevailing wage rates, as required by the Davis-Bacon Act, and the other project is an office building in Oklahoma City, utilizing the free enterprise system for wage determination.

As shown in the attached breakdowns, contracts not using the prevailing wage rates would average around 10 percent savings. In Oklahoma, State construction alone with a $500 million construction program, would save approximately $50 million.

Tinker Air Force Base has an average construction budget of $12 million; 10 percent savings on this would be $1.2 million. This does not include the other military installations in Oklahoma. Similar savings would be nationwide.

Also, lists at Tinker Air Force Base only include their base work and not their AWAX or Corps of Engineers work, which would be considerably greater than that.

I took and broke out my classification work at Tinker Air Force Base and came up with a total of carpenters, apprentice carpenters, laborers, journeyman superintendent, and a general superintendent. I came up with a total expense of around $39,344.53. This was paid during a period of January to June 1982.

During that same time, I was building a building in Oklahoma City that was around a $300,000 building, and this contract was $193,073.75 with change orders, so they were comparable in size.

I broke down what the basic rate paid at Tinker by the Davis-Bacon provision wage act and what I actually paid people that were on this other project and, like I said, the total—if I use the same number of hours on the other project that was outside of Tinker—it would have come up a total cost of $30,824, or a savings between the two projects on the same amount of man hours, $8,519.74.

Senator NICKLES. On how big a project?

Mr. DUDLEY. This would be on $193,000 contract.

If you carried this on to the subcontractors' savings, which they would have, it would have been about 43 percent of the total savings, or a total savings of $19,813.35.

The original contract, as I say, was $193,073.75, less the savings, if it had not been Davis-Bacon, and had been performed on a private construction cost, as I was doing at that time, paying these exact wages, the savings would have been $19,813.35. The contract without prevailing wage would have been $173,260.40, or a savings of 10.26 percent.

[The prepared statement of Mr. Dudley follows:]

Derrick Construction Company, Inc.

GENERAL CONTRACTORS

June 30, 1983

Senator Don Nickles
713 Hart
Senate Office Building
Washington, D.C. 20510

RE: Labor Subcommittee hearing
on S1172 in Oklahoma City

Mr. Chairman:

I am Robert C. Dudley, Jr., a General Contractor for the past ten years, doing Federal work at Tinker Air Force Base, along with State and privately owned construction.

Attached is a comparison of two projects completed in 1982, one is a Federal project, Alter Officer's Club, Tinker Air Force Base, using prevailing wage rate as required by the Davis Bacon Act and the other project an office building in Oklahoma City, utilizing the Free Enterprise System for wage determination.

As shown, on the attached breakdowns, contracts not using the prevailing wage rates would average around 10% savings. In Oklahoma, State construction alone with a $500,000,000.00 construction program, would save approximately $ 50,000,000.00.

Tinker Air Force Base has an average construction budget of $ 12,000,000.00. A 10% savings would be $ 1,200,000.00. This does not include the other military installations in Oklahoma. Similar savings would be nation wide.

Respectfully,

Robert C. Dudley, Jr.

P.O. Box 54772 Oklahoma City, Oklahoma 73154 405-528-5033

21-088 O—83——7

WAGE & BENEFIT COSTS

CLASSIFICATION	HOURS	BASIC RATE	BENEFITS	BASIC WAGE	BASIC BENEFITS	STATE/FED UNEMPLOYMENT	EMPLOYERS FICA	WORKERS COMP.	TOTAL
I. Alter Officer's Club, Tinker Air Force Base									
Carpenters	1111	12.55	1.54	13,943.05	1,710.94	529.84	934.18	1,109.87	18,227.88
Carpenter-Apprentice	606	6.90	1.00	4,181.43	606.00	158.89	280.15	332.84	5,559.28
Laborer	138	10.00	1.00	1,380.00	138.00	52.44	92.46	109.85	1,772.75
Superintendent-Journeyman	688	13.75	Salaried	9,460.00	in basic	288.00	633.82	753.02	11,074.84
General Superintendent	122	18.75	Salaried	2,287.50	in basic	86.93	153.26	182.09	2,709.78
	2665			32,251.95	2,454.94	1,056.10	2,093.87	2,487.67	39,344.53*
If same work had been performed for non-prevailing wages: wages taken from those paid during same period of time, January - April, 1982, on Larry Jones Office Building, Oklahoma City, Oklahoma.									
Carpenters	1111	10.00/avg		11,110.00		422.18	744.37	884.35	13,160.90
Carpenter-Apprentice	606	6.50		3,939.00		149.68	263.91	313.54	4,666.13
Laborer	138	10.00		1,380.00		52.44	92.46	109.84	1,634.74
Superintendent-Journeyman	688	11.88		8,173.44		310.59	547.62	650.60	9,682.25
General Superintendent	122	11.63		1,418.86		53.91	95.06	112.94	1,680.77
	2665			26,021.30		988.80	1,743.42	2,071.27	30,824.79
						Savings in Derrick's Labor costs alone-doesn't include savings to Sub-Contractor's Labor			8,519.74

*Actual numbers will vary slightly due to some benefits paid directly to employees.

If Derrick's Savings	8,519.74 - 43%
Subcontractors Savings	11,293.61
TOTAL SAVINGS	19,813.35

Original Contract (with Change Orders)	
	193,073.75
Less Savings	19,813.35
Contract without prevailing wage	173,260.40

A Savings of 10.26%

Senator NICKLES. Thank you very much.

Mr. Mitchell.

Mr. MITCHELL. I'm Bill Mitchell with New Order Co., general contractors based out of Tulsa. We do both public and private work. We use both union and nonunion personnel and subcontractors. The reason we're merit shop contractors is because of the marketplace and I would like to address the place and purpose of the marketplace in the construction industry, along with a few other items today.

We appreciate your introduction, Senator Nickles, of Senate bill 1172, and for those of us who are opponents of the Davis-Bacon legislation, whether Federal or State, it is always a challenge to testify to specific reasons for this position.

Since having been asked to present this testimony and basically been asked by our association to present it on the effect of Davis-Bacon on local and area wage rates, I will try to restrict my testimony to this area.

It is assumed on my part that everybody involved in this hearing understands that Federal Davis-Bacon is the backbone and guideline for most, if not all, State prevailing wage work.

Let me first say that I am not opposed to Davis-Bacon legislation in its original intent but, as is too often the case in our free enterprise democratic system, a reasonably good piece of legislation has been expanded, rewritten, ruled upon and manipulated by special interest groups to the extent that it no longer meets the original intent.

It has, in fact, become a burden to the majority of taxpayers of the United States. In our society, market should dictate price. Whether we like it or not, we are living in a society where the concepts of supply and demand filters down through every facet of

business, whether it be labor, equipment, or management-intensive business, one of those three.

The fact remains that market should and does dictate price. The effect of Davis-Bacon on local wage rates is as disruptive as a Federal or State agency setting the price of a loaf of bread, gasoline, wheat, fertilizer, natural gas, oil or whatever. All of these examples have the same effect of disrupting the marketplace.

The only time the Federal Government should become involved or become active in the marketplace is when a specific business or entity maneuvers itself into such a position that it disrupts the market. I assume this was the original intent of Davis-Bacon.

Hopefully, when the Federal Government takes action in instances such as this, they, in turn, will not become a disruptive entity. I believe the Government with Davis-Bacon at this time is very disruptive to the market and the market cannot bear out what the true cost of items are on Davis-Bacon work.

I think it's obvious through the testimony that's preceded ours that it's costing the taxpayers millions of dollars.

Most people aren't aware that the average wage rates of a skilled craftsman in the construction trades is now a liveable wage and always will be and I think there is a real good reason for this.

Skilled personnel, skilled craftsmen across the board in the building trades will not work for less than a marketable wage. They take a lot of pride in their work, they consider themselves craftsmen and they won't work for peanuts. They never have and I don't believe they ever will.

We think it obvious that the local cost of labor across the broad spectrum of the building trades is a controlling factor in the market. We've also received testimony preceding ours to that.

I think the best example of that is the amount of work that is currently under contract across the Nation to merit shops and open shop firms, as opposed to union firms. They realize they are using a share of the market, business share of the market.

Argument has been presented today that the merit shop cannot build quality and I think that argument is ludicrous. There are enough projects that have been built and standing and sitting there for a number of years, built by merit shop contractors and by union and nonunion labor forces that still hasn't fallen down and there are still no problems with.

The subcommittee should realize that construction tradesmen that work on these projects in both private and public sectors do not practice quality construction based on a couple dollars an hour regarding their wage. The quality work is done because of the construction tradesman's pride in his craft, because of typical guidelines of building construction in this Nation that are governed by Federal, city, and State building codes.

Also, projects are designed by certified architects and engineers and over 95 percent of the projects of any size built in this country are bonded and built under the supervision of quality and experienced construction managers.

There are numerous tradesmen who prefer to work at a $1.50, $2 dollars an hour less than union scale. In most cases, the union scale is the prevailing wage.

These craftsmen work continuously through the year and in the majority of instances, the compensation to these construction craftsmen who are not bound by union wages, prevailing wages, union regulations or any of these items make approximately the same and, in some cases, more than tradesmen who are limited to this approach in gaining work.

I'd like to point out that the difference in wage rates that we do have at different levels and the four categories—obviously, it's part of the record, it's part of the law—none of us that are contractors could afford to pay on some of these housing projects what the posted rates are. We couldn't get people to work for that. We have to pay them the marketable rate, whether the prevailing wage says $5, $6, $7 dollars for carpenters, whatever it is.

Our company is currently involved in four projects. I have a correction on my written testimony. We've recently been successful in gaining some other projects. All these four projects are under Davis-Bacon jurisdiction and they total over $9.5 million. If allowed to pay market wages, or what we would consider to truly be the prevailing wage, we could have saved the taxpayer a minumum of $480,000 and easily up to $760,000. The reason this is conservative on our end, this is labor from our own forces and it is a poll from subcontractors. There are a number of subcontractors that won't respond to this and it is extremely hard to gather truthful information in an area such as this.

I would like to suggest at this time that if the Federal Government could write into their specifications, allow a contractor to bid a job both ways, then you'd really gain some concrete documentation on the difference in the costs. If you could invite a contractor to bid a job with the prevailing wages in those specifications, invite him to bid it as a market, then you're going to see the real difference and the real savings.

The major problem with Davis-Bacon and specifically with the 30 percent rule is that it is a minority wage. It's definitely not a majority or prevailing wage and the new 50-percent rule that's just gone into effect—and, hopefully, without offending you, Senator, I believe in some senses it is a token. I think the Davis-Bacon Law should either be repealed in total or if you really want to get the market wage involved, you ought to go to 65 or 70 percent. Then you will gain a true, accurate account of what the marketable wage is.

[The prepared statement of Mr. Mitchell follows:]

New Order Company
GENERAL CONTRACTORS

June 24, 1983

Senator Don Nickles, Chairman
Senate Subcommittee on Labor

RE: DAVIS-BACON ACT

For those of us who are opponents of Davis-Bacon legislation whether federal or state, it is always a challange to testify to specific reasons for our opposition. Since having been asked to present testimony concerning the effect of Davis-Bacon on local or area wage rates, I will try to restrict my testimony to this particular area. I also assume that this subcommittee is aware that Federal Davis-Bacon is the backbone and guideline for most, if not all state prevailing wage legislation. As I comment about Davis-Bacon or prevailing wage, my comments are directed both to the federal laws as well as the Oklahoma state laws.

Let me first say that I am not opposed to Davis-Bacon legislation in its original intent, but as is too often the case in our free enterprise, democratic system, a reasonably good piece of legislation has been expanded, rewritten, ruled upon, and manipulated by special interest groups to the extent that it no longer meets the original intent. It has, in fact, become a burden to the majority of taxpayers of the United States. In our society, market should dictate price. Whether we like it or not, we are living in a society wherein the concept of supply and demand filters down through every facet of business whether it be labor, equipment, or management intensive. The fact remains that market dictates price. The effect of Davis-Bacon on local wage rates is as disruptive as a federal or state agency setting the price of a loaf of bread, gasoline, wheat or fertilizer. All of these examples has the same effect of disrupting the market. The only time the federal government should become active in the market place is when a specific business or entity maneuvers itself into such a position that it (the business or entity) disrupts the market. Hopefully, when the federal government takes action in instances such as these, they will not replace the disruptive entity as the culprit in the marketplace. It seems that in current Davis-Bacon legislation, the U. S. government is disrupting the marketplace and it is costing taxpayers millions of dollars.

Most people are unaware that the average wage rates of a skilled craftsman in the construction trades is definitely a livable wage and always will be due to the fact that skilled personnel in those trades have not and will not work for less than a marketable wage whether they are union or non-union.

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We think it is obvious that the local cost of labor across the broad spectrum of building trades is a controlling factor in the market. The best example is the amount of work that is currently under contract to merit shop and open shop firms as opposed to union firms from which most prevailing wages are determined. The argument that the merit shop cannot build quality products is lucretius.

The subcommittee should realize the construction tradesmen that work on these projects in both the private and public sector do not practice quality construction based on a couple of dollars an hour regarding their wage. Quality work is done because of a construction tradesman's pride in his craft and because the typical guidelines of building construction in this nation are governed by federal, city and state building codes. Projects are designed by certified architects and engineers and over 95 percent of the projects of any size built in this country are bonded and built under the supervision of quality and experienced construction managers. There are numerous tradesmen who prefer to work at a $1.50 to $2 an hour less than union scale (in most cases the prevailing wage)but work continuously throughout the year. In a majority of instances, the compensation to these construction craftsmen, who are not bound by union wages, union regulations, or prevailing wage regulations; in fact, make approximately the same or possibly more than the tradesman who is limited in his approach to gaining work.

We are currently involved in two public projects at this time totalling 7.2 million dollars in cost. If allowed to pay market wages (or the true prevailing wage), we could have saved the taxpayers from 280,000 to 560,000 dollars. As an attachment to this testimony, I would like to submit a resolution by the Union District Council of P.T.A. of Tulsa, Oklahoma to repeal Davis-Bacon in the State of Oklahoma - as an example of their concern for the burden of Davis-Bacon on the educational system of Oklahoma. The major problem with Davis-Bacon and specifically with the 30 percent rule is that it is truly a minority wage instead of the majority or prevailing wage. The new 50 percent rule that goes into effect July 28, is a token change of legislation. Davis-Bacon will only be a true prevailing wage when a 65 to 75 percent rule is adopted or when this legislation is totally repealed.

Let me encourage this senate subcommittee to listen closely to the invalid arguments of special interest groups regarding Davis-Bacon. The bottomline is that we as taxpayers have the right to have our public works projects built with the best quality for the lowest possible dollar. That happens to be the American way of doing things.

Presented by Bill D. Mitchell, Executive Vice President

Bill D. Mitchell

Attachment

RESOLUTION
to
REPEAL "THE MINIMUM WAGE ON PUBLIC WORKS LAW"
by
UNION DISTRICT COUNCIL OF PTA

WHEREAS There is a law in the statutes of the State of Oklahoma, and other states, titled "The Minimum Wage on Public Works Law"; but also known as "The Little Davis-Bacon Act" or "The State Prevailing Wage Law", and

WHEREAS The third PTA object is "to secure adequate laws for the care and the protection of our children and youth", and

WHEREAS The fifth PTA object is "to develop between educators and the general public such united efforts as will secure for all children and youth the highest advantages in physical, mental, social and spiritual education", and

WHEREAS Many schools in Oklahoma are required to continually update, enlarge, or add new school buildings to their facilities in order to provide adequate space and proper atmosphere for our children's educational well being, and

WHEREAS Both the Federal and State Governments are dealing with budget problems and funds for schools in the area of construction are in question and since the Capital Improvement Act may not receive appropriation for this year, and

WHEREAS Inflation continues to cut into the spending power of families and Bond issues are paid for by the communities taxpayers, and

WHEREAS In the Union School District, for example, approximately 4 - 8% ($200,000 - $400,000) could have been saved on the contract for the new addition if the construction company could have managed their own job and not have been burdened with the additional wages, paperwork and administrative expenses required by The Prevailing Wage Act, and

WHEREAS Each construction or remodeling contractor must meet City, State and Federal building codes and are designed, bonded and built under the supervision and inspection of the architects and engineers as well as continual inspection by the local building inspectors which assures the quality of the construction, be it therefore

RESOLVED That school districts should receive the most educational space and equipment as possible from tax monies spent and be it therefore

RESOLVED That The Prevailing Wage Act does a disservice to the taxpayer and to the school children of Oklahoma and be it therefore

RESOLVED That The Prevailing Wage Act be repealed by the Oklahoma Legislature thereby allowing the school districts to build the best and most space for their money spent, and to be able to receive bids from all bondable contractors thereby benefitting from the competition more bids would bring, and be it therefore

RESOLVED That a copy of this resolution be sent to each Oklahoma Legislator, and be sent to the State and National PTA for consideration at the 1983 and 1984 Conventions respectively.

The above resolution was duly adopted by the Union District Council of PTA on May 11, 1983.

Kaye Canfield

Mrs. Kaye Canfield, President
Union District Council of PTA
Union School District
Tulsa County, Oklahoma

RECEIVED MAY 16 1983

Senator NICKLES. We'll have to move on and I'll come back to you in just a minute with questions.

Mr. Cooper.

Mr. COOPER. Senator Nickles, I'm Dan Cooper, vice president of Cooper Brothers, Inc., general contractors doing business in Oklahoma City.

You have my written testimony for the record. I will summarize for the sake of time.

We do not do wage rate work anymore. We have finally, through the difficulty of doing it, been forced out of that market or have chosen to leave that market. The helper rates that we have to pay keep us from using our younger employees. The wage rate shift between employees, having the man work at one wage on this job and another wage on the next job created enough dissension in our employees, we just simply chose not to continue to do that kind of work.

One thing that has not been touched on is the monthly reporting procedures on Davis-Bacon. General contractors have to collect reports from all of their subcontractors and combine them with their own reports to be sent in monthly to the Labor Department. This creates a burden that we simply chose or choose not to bear anymore. The reports could number over 200 reports on a typical construction project, a building construction project.

For these reasons, we've chosen simply not to do Davis-Bacon work anymore. While we had our break, I went back to my office and checked on some things that others testified on this morning. It is correct that about 20 to 25 percent of the project is labor.

I submit to you that if you fix the price on 20 or 25 percent of your project, since material prices are largely so competitive, there is very little difference in them and since contracts are generally awarded for a 1 or 2 percent spread between the low and second bid, you really restrict or eliminate a good bit of your competitive nature in construction projects by doing that.

There is no way this can keep from raising costs to consumers. It simply does one thing and that is to protect the union, wherever they are able to control the wage rates that are put out. Perhaps you would be interested, as was mentioned earlier today, about post offices.

About 9 years ago, we built two post offices here in Oklahoma City, the Village Branch Station and the War Acres Post Office. These two post offices were built for $26 a square foot. Subsequent to that, the Post Office Department changed their program—these were not wage rate jobs, incidentally until the Corps of Engineers start supervising their work and went to wage-rate controlled projects.

We then did four more post office projects: one here in Oklahoma City, one in Tulsa, one in Sand Springs, and one in Tahlequah. The average of the four post office projects that were done after the two here in Oklahoma City was $61 a square foot, well more than 100-percent increase. Not all of it tied directly to labor, of course. A good bit of it was because it was now under the auspices of the Corps of Engineers, which is simply a more expensive way of having construction services done and supervising.

But there is no way, I don't see how any logical person can assume that if you cause higher wages to be paid than are prevailing in an area, that you save the customer money. That just doesn't make any sense to me.

But these are the reasons that we have chosen not to continue to do Davis-Bacon work.

[The prepared statement of Mr. Cooper follows:]

COOPER
BROTHERS, INC.

June 28, 1983

Senator Don Nickles
713 Hart
Senate Office Building
Washington, D.C. 20510

Mr. Chairman:

I am Dan Cooper, Vice President of Cooper Bros. Inc., a general contractor doing business in Oklahoma, Texas and Kansas. We are members of the Oklahoma Chapter of The Associated Builders & Contractors. I wish to thank you for the opportunity to give you my thoughts and our experiences on doing Davis-Bacon work and why we will no longer do that type of work.

There are several things about Davis Bacon that we feel are inequitable. We feel that these items are enough outside our normal method of operation that we choose not to participate in that kind of work. First of all, we feel that contractors themselves, both sub-contractors and general contractors, should be the people who set the ratio of helpers to journeymen tradesmen on the job. That ratio has a great deal to do with the cost of the project.

Davis-Bacon work specifies what wages are paid to employees. Our employees work on a merit shop basis; that is, an employee earns what he does based on his ability to produce. Because we provide full time year around employment our employees earn more annually than union employees. Since Davis-Bacon wage rates are generally union wage rates we are required to pay an employee more per hour than he regularly makes while he is on the Davis-Bacon job. This creates employee problems paying higher rates on one job than another and we refuse wage rate work for that reason.

500 COOPER CENTER / 7100 N. CLASSEN BLVD. / OKLAHOMA CITY, OKLAHOMA 73116 / (405) 842-6653

Senator Don Nickles (Continued)
Page 2 6/28/83

At the time we were doing wage rate work we were required to pay into apprenticeship programs. Since we were not signatory members to apprentice programs, this caused us problems in where the money should be paid. We lived in constant fear of complaints by the State Labor Department or by union representatives to the State Labor Department, that we were not participating or paying the proper wage that we should. Sometimes these complaints resulted only in answering a telephone call from the Labor Department, but sometimes an actual visit to the job site or our office was conducted. The harassment involved in this is just simply unacceptable as a method of doing business.

The monthly reporting that is required, or at least was required at the time we quit doing wage rate work is too burdensome. On a representative project, assuming it is a masonry building and the construction time of approximately twelve months, there would be twenty-one sub-contractors involved, each of whom has to submit a report to the general contractor and the general contractor then compiles all of these reports, sending in his own report. This causes the general contractor to have to receive 252 reports and submit them to the Labor Department over the life of the project. This number of reports create an office load that is totally unacceptable.

1. Helper Rates
2. Employee wages and rate shift from our job to another.
3. Apprenticeship programs and harrassment from the Labor Department.
4. Monthly reporting required.

The above items simply got so burdensome that we chose not to continue to do wage rate work and would not start again unless significant changes are made in this procedure.

Thank you.

Sincerely,

Dan Cooper

Dan Cooper
COOPER BROS. INC.

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Senator NICKLES. Thank you very much, Mr. Cooper.

Mr. Hannaford, you went through parts of the provisions of the bill and then also started to say something, I believe, along the line about the 50-percent rule. Do you want to complete that thought?

Mr. HANNAFORD. Senator, we have reservations concerning the strength of the 50-percent rule on its own merit. We feel that the measure must be accompanied by two provisions. One discussed earlier is the provision prohibiting the use of metropolitan project data in establishing wage rates in rural areas and vice versa.

Second, which is not included in this bill, is the prohibition of data from Federal projects in prevailing wage surveys. These two provisions would delete much of the bias permitted simply by using the 50-percent rule.

In addition to that, I'd like to make one comment, that we would request some type of an amendment to your bill, which would be introduced to amend the Copeland Anti-Kickback Act and that law requires contractors to furnish weekly payroll reports. We would like to see that amended so that it reflected reports prior to a job being started, where we would turn in our proposed wages for the project and once the project has been completed, we will make a one-time completion report on prior wages, in lieu of a weekly, burdensome paperwork problem that we have with Davis-Bacon.

Senator NICKLES. The second amendment you were proposing is to amend that Copeland Act, but you would have to file on the beginning and conclusion of the project, and not weekly?

Mr. HANNAFORD. Upon being awarded a contract, we would present to the contracting agency a proposed schedule of wages to be performed on a project. Then in lieu of a weekly reporting to that contracting agency, we would request that at the end of the project and once it has been accepted by the contracting agency, that we would then at that time present a one-time presentation to that contracting agency with reports on weekly payrolls, in lieu of a week-in, week-out process.

Senator NICKLES. Do you know what the purpose of having that weekly is?

Mr. HANNAFORD. Well, I assume that it's for the purpose of checking out the contractor. However, it's been brought to my attention that these reports, generally, as they are mailed into the contracting agencies, generally hit a file 13 and usually aren't reviewed.

Senator NICKLES. I think we've had testimony to that very thing in Washington, D.C.

You mentioned a couple of other things: One, prohibiting the use of metropolitan project data in establishing wage rates in rural areas. Would importation take care of that?

Mr. HANNAFORD. I think we definitely need to prohibit the importation of metropolitan data into the rural areas. There is no question about that.

Senator NICKLES. Haven't we done that, according to our bill, or do you think it doesn't? Is that what you're saying, talking about an additional amendment, or something?

Mr. HANNAFORD. Well, we'd like to see that a little bit more harshly presented in that bill, that makes it a more direct statement that it is definitely not allowed.

Senator NICKLES. And then you mentioned prohibition of data from Federal projects in determining the prevailing wage.

Mr. HANNAFORD. Well, whenever the Department of Labor takes a survey, they generally will take a wage survey on a Federal project that has a positioning prevailing wage on it. I don't think that's an appropriate account of what the prevailing wage of the area is. The contractor that happened to be on that prior prevailing wage project, had to pay the prevailing wage as established prior to the job. You're just using your own prior figures to account for the new prevailing wage. It needs to be eliminated. You need to go into the open marketplace to get those wage rates.

Senator NICKLES. So you have, in effect, a pyramiding effect?

Mr. HANNAFORD. Yes, definitely.

Senator NICKLES. I haven't really read the appellate court's response; I believe they did exclude those from their determinations. We'll have to check that a little further, but I believe they did.

Mr. HANNAFORD. The point I make, Senator, yes, I think it was included in the appeals report. However, I think it should be made a matter of record through your legislation so that, in the future, when our favorite Senator Nickles is not around and our children are out there working on construction projects, that future Congressmen don't decide to redirect their thoughts and change that law.

Senator NICKLES. Mr. Dudley, a couple things: You were talking about 10 percent savings; was that the total contract or just 10 percent on the labor?

Mr. DUDLEY. Ten percent on the total contract.

Senator NICKLES. Ten percent on the total contract? What percent of the contract was labor?

Mr. DUDLEY. I don't have those exact figures but normally, when you're talking about costs and percentages of costs, you're talking about a Government project or State, you're not buying the land. You're talking about raw material and the building costs. So when we're talking about labor costs, it's running around 40 percent of the total building cost; materials and labor. Labor is around 40 percent, not 20 percent. It would be around 20 percent if you included the purchase price of land, the architect's fees, the engineer's fees, et cetera. But the contractor's fees, it is about 40 percent.

Senator NICKLES. In the 10 percent figure you were using, that would be 10 percent of the contract you, as a contractor, were doing.

Mr. DUDLEY. Right. In the example, we would have saved 10 percent. That would have been through the—if the subcontractors did not have to pay the prevailing wage as determined by the Davis-Bacon Act.

Senator NICKLES. So on a $193,000 contract, I think you'd end up with about $19,000 savings.

Mr. DUDLEY. That's correct.

Senator NICKLES. Mr. Mitchell, you made a couple of comments: One, you didn't really feel like this bill went far enough, that repeal would be the direction you think is the solution to the problem.

I was catching from part of your comments that, primarily, you are against price controls and you're against wage controls and the

Government coming in and trying to set these levels, is that correct?

Mr. MITCHELL. Basically, it is correct. I'm not against the Government doing it. In some respects, it is necessary. But too often, the Government comes in with price controls on a number of items and they stay. I think they disrupt the marketplace. I think that's happened with Davis-Bacon. I don't think that the prevailing wages are set by a true market survey at this time. I think the market, in the private sector—you know, our company, by example, we still have to pay carpenters between $10 and $14 an hour, based on their skill level. Typically, we're $1.50, $2 an hour under union scale. Now, that is a difference but I think the marketplace will take care of itself.

The true prevailing wage would be arrived at that way. We can't use unskilled labor on skilled work. It just won't work. We can't do it. We won't get the contract and we won't be invited back to bid. So I'm pretty much a marketplace nut. I'd sooner see the repeal of this law. If not the repeal, if we go to a higher prevailing wage on the 65, 75 percent rule maybe a comparable wage scale would be a more correct term to use than prevailing wage in the market area. I think you will get a truer rendering of what the actual marketable wage is. Too often, it's been brought up here before, the surveys that are taken, are taken in a manner that are, for lack of a better term, padded to a certain degree and they are not accurate surveys of what the wages really are.

Senator NICKLES. You had a suggestion that contracts be bid both ways, where you have a contract that would be bid under the prevailing wage guidelines or if it wasn't. That's an interesting suggestion. I don't know that we've ever heard that before.

Mr. MITCHELL. I might mention at this time, a contractor cannot even submit an alternative cost with his bid in a set of bid documents because the way the laws are written at this point, or to compromise his bid. We can't even let the constructing agency know the savings at the time we bid. At that point, they could throw our bid out if we threw it in that bid envelope that you could save this amount of dollars if you did it without prevailing wage legislation. So the only thing I'm suggesting is that it be put in bid documents, if for nothing else, to gather information, on Government or Federal Davis-Bacon jobs, at least, have the contractor solicit bids with the prevailing wage legislation and without.

I think you'll find, if nothing else, you can take the bidders and take the mean. If you have 10 bidders, take the difference and then take the mean, you'll get an idea of what the real marketplace is. You might have a bidder on the low end that might be a renegade, or something, and you can throw him out and look for the average. I think you'll get some true market information that way, rather than the almost insurmountable problem of getting a true market survey as it is now.

Certain agencies don't know who to ask. Very few merit shop contractors even get asked for wage surveys. They very seldom ever get approached for their wages. Our books are open to anybody.

I might add one other thing: Mr. Hannaford's suggestion about filing wage reports before and after a job, we're not doing that to

try and hide anything. We'd be glad to open up any job and I don't know of a merit shop contractor in the State, especially a member of ABC, that would have any problem with anybody coming along and talking to their people and asking them what they pay them. We don't hide it. It's public knowledge. There is no difference in submitting it at the beginning and the end and somebody asking in particular courses of construction, asking those craftsmen what they are making or doing it on a weekly basis. A weekly basis, is just a tremendous amount of paperwork and it adds to the cost of the job on administration.

Senator NICKLES. What is required on that weekly report?

Mr. HANNAFORD. That weekly report, Senator, it requires every employee on that job site to report his hours, his craft, if he has a multiple-craft job—he pours as a cement finisher one day, he's a carpenter the next day or he does both those items in one day—each one of those crafts has to be reported, each one of those crafts has to be reported at separate wage rates, not to mention the dollar amount spent on accounting personnel in contractor's offices to determine the difference in withholding compensations that are required on each one of those crafts.

We estimate, our national office has estimated that if we eliminated that weekly reporting situation, just cut it down to two reports—one proposed and one actual at the end of the job—we could save at least $100 million a year to the taxpayers, not to say how much to contractors in saving.

Senator NICKLES. Mr. Cooper, you mentioned that you no longer bid on projects that now come under Davis-Bacon. Do you think there are a lot of contractors, either small or large, who maybe have been frustrated with the idea that under this type of contract, they pay what they normally pay or what they've negotiated with their union or their men or women, in contrast to if they do a Federal job, they have to come into this compliance and they'd have to meet whatever DOL changes? Are there a lot of contractors that have decided to shut down and not even bid on these projects because of that very reason?

Mr. COOPER. We find that to be true, yes. We used to do a lot of work outside of Oklahoma City. We still do, for that matter, but a lot of building work outside of Oklahoma City. When we go to a small town to invite someone to bid on a project, give them a set of specs, which includes the wage rate information, they simply wouldn't bid.

At one time, Dudley Mitchell and I, when I was president of the ABC, conducted a wage rate survey in Custer County, out in the western part of the State. You have to understand that this information to a small subcontractor, or a small contractor of any kind in one of these counties, is a very secure thing. He doesn't want you to know what his employees are earning. He doesn't want his labor force disrupted. So he's very reluctant to give much wage information.

If you in your legal branch had made a change in the wage rate law and said you could not take into account the wages paid on Federal projects in computation of a prevailing wage in an area——

Senator NICKLES. I believe that was one of the provisions in Secretary Donovan's proposal and I think it was granted.

Mr. COOPER. That would be an extremely good thing because the wage rate law is a self-perpetuating law and the only wage that may be available on a public basis easily attainable is a report that came from a job that's already been done.

In a small county with a small population, in the last year, there may only be one Government project and, therefore, that becomes the wage rate in the area. If you eliminate that, you'd get much closer to what the real wage is out there.

Senator NICKLES. What's that do to the employees? I'm assuming that, with your company, you've been in the situation where you were under it in this project and maybe not in this project and maybe if you were a busy contractor, you might be working on one project in the morning and might be working on a different project in the afternoon. Let's say you had concrete people and they were pouring concrete on two projects, maybe one private and one not. Would they be paid one rate under a Davis-Bacon project and a totally different rate on the other? Take the example of the one construction company that was mentioned earlier that did a project in one town and another project less than 100 miles away, but the rates were totally different, although they were the same people? What does that do to those employees, where they don't really have any continuity as far as what's coming in and what's coming home?

Mr. COOPER. Well, fortunately, most of our employees work almost full time, with the exception of bad weather. They are employed almost year-round. So, to my knowledge, we haven't lost any employees because of that differentiation in wage rates but it is a disruption because you always have a conversation when you're reviewing an employee's performance and it comes time to review him for a raise and you sit down with him and start having a conversation about that, he has in his mind, as anybody would—it would be human nature—if I'm worth $15 an hour working on this job, how come I'm not worth $15 an hour when I work over here? It simply interferes with your conversation in that area.

So that's the biggest disruption. I don't know that we've ever actually had some guy say, "Well, you paid me $15 over here, if you don't pay me $15 from now on, I'm going to quit." But it just puts an impediment in your employee relationship. But most of our employees, annually, will earn more than union employees. And that's why the average length of time that employees have been with us is about 10 years. We have very little turnover because of that.

Mr. MITCHELL. I might mention, Senator, in my opinion, it's discriminatory. We're forced as contractors to choose what people go to those prevailing wage jobs and makes the higher wage. I think it's discriminatory to our employees. We have to pick somebody. Sometimes circumstances cause us that we're not even able to put somebody on that prevailing wage work. But we'd like to even on the private jobs.

Whereas, if I were an employee—and I have been an employee and worked in both sectors—and as an employee, asked the question, "Well, why did they send that guy to the prevailing wage job;

why didn't they send me?" I think they have a viable complaint in that instance. And even though the wage difference might be a couple dollars an hour.

Senator NICKLES. Gentlemen, we appreciate your comments and input very much in this legislation.

Our next panel is Gerald Beam, business manager for Carpenters Local 943; Rex Reynolds, vice president, United Food & Commercial Workers, Tulsa; and Henry Baldridge, executive secretary in Oklahoma City for the State Council of Carpenters.

STATEMENTS OF GERALD BEAM, BUSINESS MANAGER, CARPENTERS LOCAL 943, TULSA, ACCOMPANIED BY REX REYNOLDS, VICE PRESIDENT, UNITED FOOD & COMMERCIAL WORKERS, TULSA, AND HENRY BALDRIDGE, EXECUTIVE SECRETARY, OKLAHOMA CITY, OKLA.

Mr. BEAM. Thank you, Senator. I didn't list a lot of salutations in my presentation to you but I do reference in over 800,000 carpenters, belonging to the Brotherhood of Carpenters, and also we're here representing the millions of nonaffiliated construction workers that do work on Davis-Bacon jobs. This does effect their wages.

Let's take a step backwards in Oklahoma. The proposed gutting of the Federal Davis-Bacon Act by Senator Nickles and others would do just that for the working men and women in this State and other States.

Senator Nickles feels that Oklahoma is a rural State and the workers on federally funded construction are receiving an inflated wage for the work they do. Aren't the workers in Oklahoma entitled to a decent wage for a day's work or should we be paid less because, as Senator Nickles puts it, we are a rural State. Oklahoma is one of the fastest growing industrial States in the Union. We have our rural areas and our industrial areas. Their per capita income per person in the State is not the highest in the country but it's not the lowest. The average construction laborer's yearly wage is less than the last raise that Senator Nickles and his fellow Senators in Congress received.

There are many avenues the Federal Government and Senator Nickles could take to save tax dollars besides cutting the taxpayers' so-called inflated wages on construction.

Senator Nickles, you said that an analyst in the Congressional Budget Office calculated that your proposal on Davis-Bacon would save billions of dollars. Where is the proof of that savings? Did you also get the figures on the cost of the rework on the jobs that did not pay the prevailing wage where the work done was inferior? That figure runs into the billions of dollars, also.

The Government receives in taxes one-third of every wage dollar spent on prevailing wage jobs. The long-range effect of Senator Nickle's proposals on Davis-Bacon would be less revenue for the Government and less money for the wage earners. The Department of Labor ran a survey on the average wages paid in areas where construction is going on. Senator Nickles doesn't agree with the Labor Department's 30-percent rule. He proposes to change the rule to 50 percent of work in a geographical area.

Senator Nickles, I would agree with your proposal, if you would agree to base your salary on a 50-percent survey on all States senators' salaries. Senator Nickles wants a ban on importing urban wage rates into rural civil subdivisions and vice versa. I would also want Senator Nickles to define rural and urban. Would you say that Oklahoma is rural and Pennsylvania urban?

The Department of Labor conducts fair surveys based on the wages paid. I believe Senator Nickles would not be happy with any survey made by the Labor Department.

Addressing Senator Nickles' helper classification: My first reaction is what is he talking about? There are over 2,000 construction trades apprentices in the State of Oklahoma. These apprentices are used on construction jobs, training as mechanics. Their wages are based on a percentage of the mechanics' scale and they are trained to be craftsmen in the trades. They also attend bureau of apprenticeship training schools.

As I understand Senator Nickles' proposal, he wants unskilled, untrained helpers to do mechanics' work. If this happens, the work quality will deteriorate, as has been proven in the past when unskilled workers try to do skilled work. The Davis-Bacon Act does not need a helper classification, as Senator Nickles wants.

Senator Nickles wants the current $2,000 threshold upped to a modest $100,000. The working people do not consider the $100,000 to be as modest as Senator Nickles does. Senator Nickles says that raising the threshold would allow Federal agencies to award small contracts more quickly and efficiently. Since when does the Federal Government do anything with speed and efficiency? You cannot legislate speed and efficiency. The $2,000 base is needed to allow the small contractors a fair chance to bid federally funded jobs.

In closing, I would challenge Senator Nickles to protect the working men and women in Oklahoma, by passing legislation, putting teeth into the Davis-Bacon Act, to prosecute contractors who violate the Davis-Bacon Act, suspend those contractors from bidding on Government-funded jobs and levy heavy fines on them. If a contractor is breaking the law now and getting away with it, he will break it under the new rules, too.

I say again to Senator Nickles, "Protect the working people of Oklahoma. Strive to give them a fair and decent wage. That is their just reward for a fair day's work."

Senator NICKLES. Thank you.

Mr. REYNOLDS. Mr. Chairman, I'm Rex Reynolds, vice president and business representative for United Food & Commercial Workers, Local 76 of Tulsa.

I appreciate the opportunity to appear before you today and express our concerns about S. 1172. We're not a construction trades union but we have more than 3,000 members in Oklahoma. Our union traditionally has supported the causes of working men and women, even if they don't belong to a union.

We believe S. 1172 is a giant leap backward for the skilled craftsman employed in the construction trades. But the problem is much deeper than this one bill. We're concerned with the growing mood in some quarters of Congress and some segments of the business community that seem to think the time is ripe to roll back the gains workers have made in the past 100 years.

We're concerned that because unemployment is at near-depression levels, there are some in this country who seem to believe America should turn its back on workers and the hard-earned protection we have won.

In reality, the Davis-Bacon Act was designed to protect both business and labor. By allowing the establishment of a prevailing wage, the act protects legitimate construction businesses from cutthroat, fly-by-night operators and protects workers' wages and benefits from the same people. We recognize that S. 1172 will write a definition of prevailing wage into the act for the first time. Tragically, that definition changes the current 30-percent rule to 50 percent, which, we believe, will end up lowering wages to some classes of workers in cases where there is no identifiable majority rate.

We recognize also that Department of Labor regulations likely will be implemented soon which set the 50-percent level, but we believe it would be better to not set the figure in concrete so changes, if they become necessary, may be made more easily.

Even more harmful to workers is a provision in the bill which, according to you, Senator Nickles, from the April 28, 1983, Congressional Record, will establish, "An outright ban on importing urban wage rates into rural civil subdivisions and vice versa."

The so-called importation of rates occurs when the Department of Labor cannot find projects of similar character in a county to determine the prevailing wage and uses adjacent or nonadjacent counties.

On the surface, it sounds reasonable that the prevailing wage rate used should be the rate in the county where the work is being done. But, frequently, there are not enough skilled craftsmen in some small counties to service the project. Usually, the workers will come from urban areas, driving many miles to the job site or spending several days away from home each week. Why should they be paid less? In reality, they should get more and, frankly, the record shows that these imported wage rates usually are nonunion rates in a majority of the cases.

Both sides in this long-running battle to repeal or weaken Davis-Bacon toss around a lot of numbers, but the studies and economic models that I've seen from those who want to save Davis-Bacon seem more realistic and balanced.

Obviously, I'm biased, Senator Nickles, but then so are those who want to water down or eliminate workers' rights.

The English statesman, Benjamin Disraeli, once said, "There are three kinds of lies: lies, damned lies and statistics."

We believe the most detrimental results of S. 1172 will spring from the addition of a helper classification to classes of workers currently used to determine prevailing wage. Historically, helpers have been recognized as a class only when they form a distinct group and their use prevails in an area. Mixing lower salaried, semi-skilled helpers' wages with skilled craft wages, obviously, will lower the overall salary scale for trained workers.

We suspect that a long-term result might be, once helpers are established in the act as a class, that they may be allowed eventually to work at any and all job classifications, either through regulations or future amendments to the act.

Judge Harold H. Greene of the U.S. District Court for the District of Columbia, spoke directly to that issue recently, when he blocked proposed Department of Labor regulations which did exactly what I've just described.

He said, "As a consequence, such individuals would be allowed, at the discretion of the contractors, to perform the tasks of laborers or journeymen mechanics and of laborers and mechanics on a cross-craft, multitrade basis. Obviously, if contractors could thus assign a helper to perform the task of any and all classes of laborers and mechanics and they could do so at lesser pay, they would do just that." That may not be the intended result of this amendment but stranger things have happened, Senator.

Finally, raising the dollar level of contracts covered by Davis-Bacon from $2,000 to $100,000 will, we believe, result in removing literally millions of dollars in Government contracts from protection under the act. Even our massive Federal Government must have thousands of painting and remodeling contracts under $100,000.

As working taxpayers, we recognize the need to cut Government spending but cheapest isn't always best in the long run. There are a number of studies which substantiate the argument that trained, skilled professionals are more efficient, work faster, and do a quality job which doesn't have to be redone later.

We hear the repeal and water-down crowd say that because the Davis-Bacon Act is 50 years old, it's outdated. We prefer to believe it has stood the test of time and still is serving us well as is the U.S. Constitution, which has needed only minor modifications in nearly 200 years.

Senator, I will close with one of President Reagan's favorite sayings, "If it ain't broke, don't fix it."

Thank you.

Senator NICKLES. Thank you very much.

Mr. BALDRIDGE. Senator Nickles, my name is Henry Baldridge. I am the secretary-treasurer of the Oklahoma State Council of Carpenters and have the responsibility of representing both carpenters in urban and rural environments.

First, let me thank you for allowing me to come forward and give you my thoughts about the Davis-Bacon Act as it now stands on the amendment that was proposed in the Senate of the United States on April 28, 1983, designated Senate bill 1172.

The Davis-Bacon Act was originally passed to keep carpetbagger contractors from bidding low on federally funded projects and then importing cheap labor from depressed areas to make an exhorbitant profit by generally failing to pay proper and living wages to the workers that they imported into the area.

The requirements under the Davis-Bacon Act that the wages shall be determined by the prevailing pay for classes of workers employed in projects of similar character, whether they be union or nonunion, allowing the area where the project is to be built to furnish the labor insofar as they can. The provision eliminates many of the problems inherent in competitive bidding on Federal projects.

Let me address the change that you indicate, regarding prevailing wage from the 30-percent rule to the 50-percent rule. To go to

the 50-percent rule would be nothing more than just taking the average of all the wages in the community and the fallsity of doing it in that fashion would be that you have skilled artisans and craftsmen, particularly in the carpentry brotherhood, finish work carpenters and all kinds of every skilled people and if you just took an average across the board, rather than the 30-percent rule, you're not going to be able to get the quality of workers because they would attempt to find employment in other areas where they could be paid what they are actually worth as artisans.

You know the old phrase, "Where is there never enough time and money to do anything right and always enough time and money to do it over"? This would be applicable to this situation because the less skilled the craftsmen that do the work on the project, the less skillful the work that is done and the more errors that are made because of lack of proper knowledge and skill, generally ends up a hodgepodge of mistakes and errors and coverups and very little quality workmanship.

If you abandon the 30-percent rule, you are going to get less quality men doing less quality work. How many times have we said, "Gee, I wish I'd paid a little more and had the job done right the first time"? That applies to small jobs and it applies to big jobs.

I think it would be bad for the labor force in general and in particular for the skilled labor force like the carpenters, electricians, plumbers and other craftsmen to install the helper classification in the Davis-Bacon Act. My reasons for this are many but, basically, for a man to become skilled in any line of work that is a craft requires a good many years. It requires apprenticeship programs. It requires working and studying. If a helper classification is allowed to be placed in the Davis-Bacon Act, you're going to have a dead-end classification.

You're going to hire helpers, you're going to pay them helpers' wages and they are going to be helpers and the next job, they are still going to be helpers. And the rest of their lives, they are going to be helpers and they will never advance. You will have a mass of workers in the crafts field that are not skillful enough to be journeymen and cannot advance beyond the helper stage.

The way the law stands now, pay has to be based on the scale of some recognized apprenticeship program. This is the proper way to have it.

I would earnestly beseech you, sir, to reconsider your provision as to helpers because it undermines the spirit and the effective direction of young men into skilled work.

You know, I don't believe that the Labor Department imports urban wages to rural areas. I think they do the very best they can to get the prevailing wage and set prevailing wages scales as they find them, utilizing both union and nonunion scale.

But, of course, if you are building a project that requires very skilled labor, you may not have any skilled labor of that nature and type in the rural area and to, of course, find a similar project, similar character, the Labor Department may have to go to some other area, hopefully in the same subdivision to determine the prevailing wage scale.

But, in any event, to prohibit the Labor Department from going to an urban area to find a specific skill would be tying their hands,

so far as obtaining the properly trained and skillful men to do the work required on the project.

I think—and I voice the sentiments of my members who come from both urban and rural communities—that a prohibition insofar as the setting of prevailing labor rates restricted to urban or rural areas would be the most difficult that the Labor Department would ever face in setting wages to get a project completed.

I further think the primary duties of the American Government and all the folks that work for it is to protect the general population of the United States and, hopefully, to make the health and welfare, personal convenience and liberty of the average citizen more acceptable to him in this difficult life. To raise the threshold of the Davis-Bacon Act from $2,000 to $100,000 would be placing a large portion of our population into the status of second class citizens.

It is my feeling that a job under $100,000 to be done without application of any of the provisions of the Davis-Bacon Act would allow the smaller projects, which are to be used by the citizens of Oklahoma, not to be brought up to the workmanship and skill of a job of more than $100,000.

It is difficult to understand why the smaller jobs that go to the benefit of our citizens should not be as important insofar as the benefit of the citizens are concerned, as the larger jobs. Why would one contractor on the small job not have the same duties and responsibilities toward our country and our Government as the contractor on a large job? It doesn't seem to fit. The $2,000 threshold regarding Government projects has done a good job for years and will continue to do a good job and it won't cost the Government a bit more to keep it than to take it away.

By taking it away, it places less burden on the contractor on a small job and will allow him, if he wants to do the job with illegal aliens and unskilled people, to disregard the workmanship that should be there.

Someday we would hate to find that a sewage plant didn't work and we had a typhoid epidemic because it was done improperly, because it cost less than $100,000. Or the little schoolhouse out on one of the Indian reservations here that was built by Government money collapsed and hurt some people because it cost less than $100,000 to build.

It just seems imperative to me that all Government projects should be done with the same workmanship requirements as the least and the large alike. If we keep the $2,000 threshold, this will be done but to raise it to $100,000 just leaves a hole in the fence for the unscrupulous contractor to slip through and take from our citizens the things that they are entitled to receive by a job well done.

Thank you very much.

Mr. Beam, a couple question: I'm assuming all of you are aware of the court's rulign that basically accepted most of th eocmponents in this bill. Quite frankly, this legislation was patterned, to some degree, with some of the suggestions that Secretary Donovan came up with and we consulted back and forth, with the exception of the threshold.

Senator NICKLES. Thank you.

Mr. Beam, a couple questions: I'm assuming all of you are aware of the court's ruling that basically accepted most of the components in this bill. Quite frankly, this legislation was patterned, to some degree, with some of the suggestions that Secretary Donovan came up with and we consulted back and forth, with the exception of the threshold.

Those changes look like they are going to be upheld. I think one of you quoted Judge Greene, who originally threw down three of them. He didn't throw down the 50 percent, but he did throw down the helper and importation, and now the appellate court has upheld all three of those.

Any comments on that?

Mr. BEAM. Wasn't that still being studied in the appeals to the decisions?

Senator NICKLES. It's possible. I'm not sure exactly where it will go in the court system from there.

Mr. REYNOLDS. Have you read the court decision?

Senator NICKLES. No; it was just made yesterday.

Mr. REYNOLDS. I haven't read it so I'm not aware of exactly what we're talking about.

Senator NICKLES. From the statements that were made, you all are opposed to any changes whatsoever in the Davis-Bacon Law. Most of the people I visited with who are strong supporters of Davis-Bacon still come back to me and say "Yes, we realize that maybe some changes are in order." They may not agree, maybe like you, Mr. Baldridge, that $100,000 is right, but say it doesn't seem right to have it at $2,000.

Just to give you an example, you could have a little contract in Turpin, Okla. and somebody is going to redo the windows; and it could be a $3,000 contract. That person may never do a Federal contract but maybe only once a year. He may be primarily remodeling houses, but he's going to redo the windows. He's never come under Davis-Bacon. But here he's going to do something for the post office and then the Federal Government comes in and says, "Wait a minute. We've got to take a survey."

Well, they've never taken a survey in Turpin, Okla., it's a small town. So they end up pulling whatever wage rates and, quite frankly, usually the wage rates that they would pull in would be greatly in excess of what that fellow pays. Would you agree that maybe some modification could or would be made in those types of circumstances?

Mr. BEAM. In Oklahoma, 100 miles from Oklahoma City is Texas. You give the statistics that a hundred miles from here, the rate's different. Well, Tulsa's rate's different than Oklahoma City's.

If they under "like work", the closest work they can, if they don't have any in that area, they go to the next area that has like work. Shouldn't people be paid a decent wage for it?

Do you understand how the Labor Department conducts their surveys?

Senator NICKLES. To some extent. But, see, that's part of the problem. I'll take this example of Turpin, Okla. You have a group of businesses and several of them decide they are going to change their windows and go to thermopanes. Here's the contractor that gets it, and he's tickled he's going to do several. Well, here's how

much it costs for all these privates and, bingo, he runs into a Federal one and it costs him twice as much and costs the taxpayers.

Again, I'm not trying to debate, but I would think some changes need to be made. I think the courts are saying that. I'm not sure it's finally resolved. I guess we'll have to see how that comes out through the court process. But either legislatively or through the courts, I expect there is going to be some change. Maybe the threshold would have to be done statutorily in either prohibiting importing rules or modifications in the helpers, or something. I expect there to be some change in that regard and I'd like to have your comments on how and what could or couldn't be done.

Mr. REYNOLDS. I have a question. You're talking about this $2,000 limit and then you're talking about $100,000. That's too much, No. 1. And you're asking if we can find a compromise somewhere in between. Where do you draw the line, Senator? How many people are going to suffer if you start raising them, if you start lifting those protections from those workers out there? You've got to stop and think about those people.

I would like to see all the energy that you've generated on this issue channeled into just making people live up to the act as it is written and not trying to repeal it or amend it to weaken.

Senator NICKLES. I might say that we're receptive. You or somebody else made mention in your comments about violations. I'm interested in some input. I want to know how it's working or if it's not working. That's part of the reason why we're having the hearing today. We're talking about the protections. I'll just touch on this one thing: We've discussed the helper classification. We've had two or three witnesses today say if there is not a helper classification, then the lowest wage rate in that determination would be a journeyman wage rate, but it may well be that they hire somebody that's not skilled who is interested in a job.

I'm asking for your response to this. You have an 18-year-old that's not skilled, wants a job, and make a living. The lowest wage rate there is $9. They didn't help any of the unemployed young men who were looking for a job in Lawton, Okla., because they couldn't afford to pay those people $9. Those people to some extent were discriminated against because they couldn't get into that project. Here was a $2.1 million project to construct a building, there were a lot of people who would be interested in it, but they couldn't get into the cycle.

Any comments?

Mr. BEAM. Well, Senator, we have apprentices and ABC people have apprentices, too, that can be hired in the job and paid at a lesser rate. They are registered with the Bureau of Apprenticeships.

Senator NICKLES. If they don't have the helper rates—again, this one thing: I saw the lowest rate that they had and I don't remember what the classification was but it was $9.

Mr. BEAM. Well, let's call it carpenter. They can hire apprentices at 60 percent, a first-year apprentice, and pay him 60 percent of that wage, 60 percent of the journeyman's scale.

Senator NICKLES. How would that work in a case like this where I have asked them for the wage rates and they said the cheapest

wage rate—and they had some expensive ones for this—but the cheapest one was $9.

Mr. BEAM. They are giving you part of the facts but not all of them.

Senator NICKLES. Are you saying some of those guys are working for 60 percent of that?

Mr. BEAM. If they are hired in as apprentices, they're paid based on the percentage of journeyman's wages.

Senator NICKLES. And in all these projects, they could have apprentices?

Mr. BEAM. Yes, if you check with the Bureau of Apprenticeship, you would be surprised to find out how many apprentices are working on federally funded jobs.

Senator NICKLES. Are they prohibited in some of these projects from even having apprentices? In other words, was this guy telling me the truth, that the cheapest labor rate was $9, or are you saying maybe it's 60 percent of that?

Mr. BEAM. Did he call them mechanic's rate or laborer's rate?

Senator NICKLES. I think laborer's rate was $9.

Mr. BEAM. Well, I'm not familiar whether laborers have apprentices, or not. But the cheapest rate on the job could be less than that, if he hires apprentices.

Senator NICKLES. Do you have apprentices for laborers?

Mr. BEAM. I don't know. I'm going to check with the laborers.

Senator NICKLES. A guy was telling me there was a lot of demand in Comanche County, Okla., to do some work and the cheapest labor rate that they have is $9. It seemed to be too high of a price or an awfully high price for somebody that didn't have any skills.

Mr. BEAM. Senator, how do you base on the worth of the man? You have rates in Muskogee that were testified to by Ben Hutchinson of $5 for laborers. You have heavy and highway rates, you have your HUD housing rates, which are lower than a building rate.

Senator NICKLES. I guess the building rates are where many of your people would be coming in, that's the area that draws most of the attention. I don't hear that much concern on the heavy or the highway, as much as I do on the building.

Mr. BEAM. It's put on the building rate and the majority of the work is done heavy and highway or HUD. But the emphasis is put on the high, so-called rates for buildings.

In the 1930's, the Davis-Bacon Act was enacted to protect the working people against unscrupulous contractors in the locale in which they were working. Those conditions haven't changed. It seems like in some circles, we're in a depression now and we have unscrupulous contractors taking advantage of people displaced because they are coming into Oklahoma from other States, they can't find work where they are at and they are peddling their wages. When somebody should be paid $10 an hour for their skill, they peddle it and pay them $5 because those people need work and that's not right.

The Federal Government is protecting those people on the Davis-Bacon jobs. They pay them a decent wage for their skills. Some

contractors say, "Well, we've trained men that can do electrical work, carpenter work, sheetmetal work, make them diversified."

Well, the teachers in Oklahoma, if you have a degree in this, and a degree in that, and a degree in something else, you get more pay for it. But some contractors think if you know it all, you should be paid less. Now is that right? If you know things in two or three crafts and you know how to do them, shouldn't you be paid more? They've padded the wages on these people and it's unfortunate.

They talk about the unions. If it wasn't for the unions, everybody'd be working for three bucks an hour. Twenty percent of the work force of the United States belongs to the unions.

Senator NICKLES. Is that what it is today?

Mr. BEAM. Well, give or take 5 percent.

Senator NICKLES. Do you happen to know what it is in, say, building and trades?

Mr. BEAM. No, but I can find those figures. I've heard figures going around today of the savings of a million dollars to 100-percent savings. They could do the job for nothing if you didn't have Davis-Bacon. You've heard those, too. All we want to do is protect the working men in Oklahoma.

Senator NICKLES. I appreciate all of your comments. Again, your expertise and your input is noted. That's one of the reasons why we wanted to have this hearing in Oklahoma. You know, a lot of times we have these hearings in Washington, D.C., and you don't get the input from local people.

I want to have the chance to increase the dialog with other people to see if we can't work together to improve the opportunity for more people to have jobs and be able to strengthen their economic outlook in the future. I think we share that goal.

Thank you very much.

On our next and final panel is Kenneth McFall, executive secretary who represents the Oklahoma Farm Bureau, and Bill Skeith, who represents the Association of Oklahoma General Contractors.

STATEMENTS OF KENNETH McFALL, EXECUTIVE SECRETARY, OKLAHOMA FARM BUREAU, OKLAHOMA CITY, OKLA., AND BILL SKEITH, EXECUTIVE DIRECTOR, ASSOCIATION OF OKLAHOMA GENERAL CONTRACTORS, OKLAHOMA CITY

Mr. SKEITH. Mr. Chairman, I am Bill Skeith, executive director of the Association of Oklahoma General Contractors. Our trade association represents over 250 contractors and suppliers in our State, who build some 90 percent of the roads, bridges, turnpikes, highways, dams, and streets of Oklahoma.

We are the Oklahoma chapter of the American Road & Transportation Builders Association, as well as the highway-heavy chapter of the Associated General Contractors of America.

We appear here today to congratulate you on your interest in the reform of the Davis-Bacon Act. While outright repeal of this national act would be desirable, we fail to appreciate the practical, political reality of this happening.

To our association, reforms contained in your S. 1172, authored by you and the other distinguished Members of the Senate, offer many corrections that would save money and efficiency in ascer-

taining the correct wage rates for construction projects awarded by the Government.

We fully support your amendments to the act, as contained in S.1172, which limits the monetary size of contracts to which Davis-Bacon wages must apply, which requires a clear majority, over 50 percent of the workers to be paid the same wage before that is determined to be prevailing in that craft, which requires a weighted average when this does not occur, which provides for helpers, as well as journeymen mechanics under wage determination.

Each and every one of these changes will save money and provide a more realistic wage determination. They should be enacted at the earliest date, in our estimation.

Well-documented studies by the Wharton School of Business at the University of Pennsylvania, the U.S. Government's General Accounting Office, Oregon State University, found that the Davis-Bacon Act inflates Federal construction costs by several hundred million dollars a year and about 26 to 38 percent per project, depending on the region of the country.

With these reports before the Congress and the American taxpayer, it seems mandatory for reform in this antiquated law.

Let me repeat one more time our position: Repeal of the act seems justified but we do not believe the political climate of today will permit this. Passage of S. 1172, which contains many justified reforms, seems to be a realistic approach that is attainable in this session of the Congress.

We wish for you, Senator, and your colleagues, much success in this effort of reform and we express many thanks for this opportunity to express our opinions in this matter.

Senator NICKLES. Thank you very much, Mr. Skeith.

Mr. McFall.

Mr. MCFALL. Thank you very much, Senator.

I'm Kenneth McFall, executive secretary of the Oklahoma Farm Bureau. We welcome this opportunity to bring our statement to you. It's been expressed repeatedly by the delegate body of the Oklahoma Farm Bureau and the American Farm Bureau Federation that this law should be repealed.

Let me say if Congress is really serious about cutting the cost of Government and cutting the annual deficit, it simply cannot ignore the impact of this law on construction costs of Federal projects.

I heard Mr. Skeith refer to the Oregon State University study. This was a study commissioned by the American Farm Bureau Federation and other organizations, to which we contributed, done in 1981 and 1982—no, printed in 1982; done in 1980 and 1981, I believe.

You have already heard the Oregon State people testify in Washington, so I will not go into any details. Mr. Skeith cited one statistic from that study that said that the average cost was between 28 and 36 percent higher for those projects built by the prevailing wage provisions.

They further said that the greatest disparity, the greatest difference was in rural areas and so that impacts on rural schools and that is, of course, the main concern of membership of the Oklahoma Farm Bureau.

But be that as it may, the fact is that it is a cost differential borne out by every study that's been made, including several Government studies back with the Jimmy Carter administration. I'll not read this because it is repetitive of what you've already heard.

I would say at this time, when Oklahoma school districts, cities and towns, rural water districts, and any other government entity, these are almost 100 percent strapped for money.

We have a fair chance of making a change in the Oklahoma laws but until both laws are changed, both repealed, it will not be fully operative.

I'd like to leave my statement for a moment and make one observation, that inasmuch as we are borrowing between $150 and $200 billion, depending upon what you finally wind up in your budget deliberations, we are building these buildings with money we don't have. We're building these buildings, if you please, with moneys to be borrowed and to be paid back, I presume, at least serviced by our grandchildren. It seems somehow at little bit slipshod, maybe even immoral for us to continue to do this.

Assuming that a building must be built and you must borrow the money to do it, it simply seems fair to our grandkids to borrow a little bit less and pay what the market wages are. Thank you very much.

[The prepared statement of Mr. McFall follows:]

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July 5, 1983

The Honorable Don Nickles, Chairman
U.S. Senate Subcommittee on Labor

Mr. Chairman:

Oklahoma Farm Bureau welcomes this opportunity to state the views expressed repeatedly by voting delegates to the state and national conventions, in favor of repeal of the Davis-Bacon Act of 1931, as amended.

If Congress is really serious about cutting the cost of government and cutting the annual deficit, it cannot ignore the impact of this law on construction costs.

In 1981, Oklahoma Farm Bureau with other state Farm Bureaus and the American Farm Bureau Federation, participated in a survey of several hundred projects covered by Davis-Bacon, and compared these costs to similar structures built for private entities. The contract for this study was awarded to Oregon State University, which printed a report in January 1982. A copy of the complete report is available today. I understand you have already heard from OSU in earlier hearings.

We are providing machine copies of some key pages from that report, including the Executive Summary and the longer Summary and Conclusions.

Here are some of the highlights:

1. The 1931 law has been broadened several times. In 1964, the act was changed to include, in the definition of wages, the cost of fringe benefits. In addition, Congress later made the act apply not only to projects built with federal money, but also to those projects built for entities receiving federal aid, federal loans, federal guarantees or federal insurance.

2. As an example of the scope of construction covered by Davis-Bacon, the study group found that in 1977, a total of $7.4 billions in costs was covered directly. Also, as much as $30 billions additional in state and local construction was built with federal aid and was therefore covered. Assuming a 30% saving by repeal, the saving would have been $10 or $11 billions .

3. Costs of the Davis-Bacon covered construction were from 26 to 38 percent higher than the control group. Greatest difference in cost was in the rural areas.

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The study which we helped to fund bears out other studies, some of them by federal agencies which establish beyond any doubt that Davis-Bacon significantly inflates the cost of public construction.

Oklahoma school districts, cities, towns and counties are in most cases severely pinched for funds. Congress can help ease this situation by repealing the Davis-Bacon Act.

In addition, Oklahoma Farm Bureau will also be working in the legislature to repeal the state's version of the prevailing wage act.

Thank you for the opportunity to express our views.

Kenneth McFall
Executive Secretary

Effect of the Davis-Bacon Act on Construction Costs in Non-Metropolitan Areas of the United States

Martha Norby Fraundorf
John P. Farrell
Robert Mason

Department of Economics
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January 1982

EFFECT OF THE DAVIS-BACON ACT ON CONSTRUCTION COSTS IN NON-METROPOLITAN AREAS OF THE UNITED STATES

Martha Norby Fraundorf, John P. Farrell and Robert Mason

EXECUTIVE SUMMARY

This study of the impact of the Davis-Bacon Act sought to measure its effect on construction costs as well as on wage rates. Through face-to-face interviews with contractors of 215 randomly-selected non-residential buildings in the United States, data were gathered on wages, costs, project characteristics, size as well as a host of other variables thought to affect construction costs.

Holding all other variables constant, the results show that the impact of the Act ranges between 26% and 38% depending on the economic model employed. This estimate is larger than earlier empirical studies, based on wage data for urban or national samples, have suggested. The Act raises costs primarily by raising wages; however, costs are raised in other ways as well. Work assignments to a particular trade, required for applying the posted prevailing wage rate, also may have increased costs.

Moreover, the data indicate that the Act is not preserving jobs for local contractors, contrary to its original intention. Only 28% of the contractors for the public (Davis-Bacon) projects were from the same county in which the project was located, compared to 47% of the private projects matched for type and size.

Regional estimates show that the 26%-38% increase is not uniform. The effect of the Act on construction costs was not strong in some regions, such as the South, while it was very strong in others, such as the North-Central. One possibility is that the Act has little effect in rapidly growing regions, where labor markets are likely to be tight.

The results apply to non-metropolitan areas only and should not be generalized to urban settings, which are likely to be quite different. Part of the increased costs may be due to other government programs, such as affirmative action, or to different standards for quality and safety. These effects cannot be disentangled readily from that of Davis-Bacon. Furthermore, repeal of the Act does not mean a 26%-38% reduction in costs unless state prevailing wage laws are repealed as well.

CHAPTER 1. REVIEW OF THE CONTROVERSY OVER THE DAVIS-BACON ACT

Congress passed the Davis-Bacon Act in 1931 in response to complaints by local contractors and construction workers about the loss of federal construction contracts to itinerant contractors importing low-wage workers from other areas. Supporters argued that a law requiring all contractors to pay the local rate would protect local living standards as well as ensure that local businesses had a chance to bid successfully on jobs in their area. This rationale was restated during the hearings held in the early 1960's. Testifying before the House Subcommittee on Labor, Under Secretary of Labor John F. Henning said:

> ...we submit that this amendment [to include fringe benefits] would at once protect the fair construction employers and the American workingman. It would protect the fair employer from the incursions of those who would move into his contracting area, tempted and advanced by the winning of contracts through substandard conditions, and it would protect the American workingman from being victimized by such substandard conditions.*

A number of witnesses cited cases of outside contractors who did not pay fringe benefits — including one which had hired "from an orphanage in the Carolinas" for a project in Washington, D.C.[1] —thereby underbidding local contractors. Individual contractors and representatives from some associations and unions argued that such legislation was in the public interest. As an example, G. R. Collins, president of the National Contractors Association, stated:

> In conclusion, enactment of the bill shall, in our opinion, contribute toward stabilizing the construction industry . . . It will also contribute to the public interest by promoting continuance of apprenticeship training programs for the industry and help to maintain voluntary retirement and medical aid plans.[2]

Such arguments have been persuasive, not only in Congress, but also in many state legislatures. All but nine states have state prevailing wage laws. Although many of these are similar to the federal law, they differ in coverage and method of defining the prevailing wage.[4]

For all contracts "in excess of $2,000 to which the United States . . . is a party," the Davis-Bacon Act requires payment of wages "prevailing for the corresponding class of laborers and mechanics employed on projects of a character similar to the contract work in the city, town, village or other civil subdivision of the State in which the work is to be performed."[1] Since 1931, the Davis-Bacon Act has been extended in a number of ways. In 1964, the Act was amended to broaden the definition of wages to include fringe benefits. In addition, Congress has incorporated the Davis-Bacon prevailing wage provisions in legislation providing federal assistance (federal aid, federal loans, or federal guarantees or insurance) for construction of schools,

* Footnotes are listed at the end of each chapter.

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CHAPTER 5. SUMMARY AND CONCLUSIONS

Does the Davis-Bacon Act raise construction costs? Almost all empirical studies have dwelt on the wage effect, ignoring the more fundamental and difficult questions of the law's overall effect on costs. While it is fairly clear that the law results in higher wages, it does not follow that the law therefore raises overall costs. Higher productivity of workers engaged on Davis-Bacon projects may more than offset the associated higher wage and administrative costs. Only an empirical study of total costs can get at these issues.

To get data to estimate the effect of Davis-Bacon on costs, we interviewed contractors who built selected non-residential buildings. The buildings were chosen from a list we compiled—based on permits issued and federal funding granted during 1977 or 1978—of construction projects located in a randomly-selected sample of 100 rural counties. From this list we selected a sample of 537 similar federally-funded and private projects. After eliminating those which additional information showed were not appropriate, we located contractors on 385 of these projects. We then interviewed contractors to obtain information about costs and project characteristics. Useable information was returned for 215 projects, of which 113 were projects to which the Davis-Bacon Act applied, and 102 were privately-funded and not subject to any prevailing wage requirements.

Our data show some support for the argument that, contrary to original intentions, Davis-Bacon is not preserving jobs for local contractors. The majority of contractors on both private and public projects were not from the county in which the project was located. However, contractors on public projects were significatly more likely to come from outside the county. Contractors on Davis-Bacon projects also were significantly more likely than those on private projects to come from urban areas.

A number of studies have provided illustrations of the effect of Davis-Bacon on wage rates. In our sample, contractors on 28 projects (24.8% of the public projects) said they had to raise wages above the normal rate due to Davis-Bacon. The average increase due to Davis-Bacon was 34.1% for carpenters and 45.2% for laborers. In addition, other low-wage contractors may have been discouraged from bidding on the project. The effect was that wages were significantly higher on the Davis-Bacon projects. Depending on the trade, wage rates ranged from 12.9% to 23.2% higher on the public projects. Wage rates paid supervisors were not significantly different.

Although the main effect of the Davis-Bacon Act seems to be to raise costs by raising wages, it is alleged to affect costs in other ways as well. There is certainly a difference in the costs of the public and private projects in our sample. The 113 federally-funded projects cost an average of $708,075 while the 102 private projects cost an average of $360,504. The public projects also were larger: 19,350 square feet on average, compared to an average of 14,203 for the private projects. Not all the cost difference should be attributed to the effect of the Davis-Bacon Act. Differences in the physical characteristics of the buildings and their regional location may account for some or all of the difference. To examine the effect of the Davis-Bacon Act while holding other things constant, we used an ordinary least squares regression of cost on scale, building characteristics, regional location, and Davis-Bacon variables. Changing the particular form of the model changed our results. However, in nearly every case the Davis-Bacon variable was significant at the 5% level or better. Based on our regression results, we estimate that nationally the Davis-Bacon Act increases construction costs in rural areas by between 26.1% and 37.7%. Regional estimates were less successful. The Davis-Bacon variable was not significant in some regional regressions, such as the South, while it was highly significant in others, such as the North-Central. A possible explanation is that the Act has little effect on cost in rapidly growing regions, where labor markets are likely to be tight.

These cost differences seem to stem not only from an increase in the wage rates that must be paid to workers in a given trade but also from the assignment of work to a particular trade for purposes of applying the posted prevailing wage rate. If more work were classified as done by "general building mechanic" and paid at the prevailing wage for that category of worker, the cost of public projects would be likely to more closely approximate that of similar private projects built by the mostly non-union contractors operating in rural areas.

Some caution should be used in interpreting or applying our results. First, our estimates are only for the impact of Davis-Bacon on the cost of non-residential buildings in rural areas. One cannot conclude that the effect for all construction is identical. The impact of Davis-Bacon on the cost of projects in urban areas or of other types could conceivably be quite different. The likelihood of such differences is strongly suggested by the different size effect we observed when separate estimates were made for the different building types and regions. A second caveat is that while our model discriminates among projects via a host of technical characteristics, it does not include every possible component or alternative method of construction. Omitted characteristics may have an effect and may be correlated with the applicability of the Davis-Bacon Act, possibly affecting our estimates. In addition, based on our analysis of the different cost components, we think at least a part of the cost effect our model attributes to the Davis-Bacon Act is in reality due to other government programs, such as affirmative action, or different standards for quality and safety. These effects can not be disentangled readily from that of Davis-Bacon. Whenever one applies, so do the others. Furthermore, if the Davis-Bacon Act were repealed, it would not mean a 26.1% decrease in costs unless state prevailing wage laws (which would still apply to many, but not all, projects) also were repealed.

That the Davis-Bacon Act increases the cost of public non-residential buildings in rural areas is fairly certain from our estimates. While the exact size of the impact is still uncertain, our results show that it is likely to be between 26% and 38%. This is larger than earlier empirical studies based on wage data for urban or national samples have suggested, and is likely to include the impact of other government programs as well.

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Senator NICKLES. In other words, what the employer and employee have agreed to pay, not so much what the Federal Government mandates they must pay?

Mr. MCFALL. Correct. If the labor situation is such that you can build a building for a little bit less, then certainly the taxpayers deserve the break of building for a little bit less, and I have to observe that we're not paying for this. We're charging part of this off to our grandkids. To the extent that Federal construction, that it bears to the deficit, that part of it, we're talking about here.

Senator NICKLES. I think you make a good point. You pointed out one of the necessities and desires for some of this type of legislation. We have had good suggestions, including those from people representing organized labor. Others have discussed efforts to cut some of the engineering costs, to be able to cut some of the cost overruns because all that affects the debts being serviced.

The rural areas aren't under this law and as you're probably aware, recently the court of appeals sustained the administration. Administratively, the Department of Labor was trying to make a change where they would not import into rural areas urban wages, whether they be higher or lower. In most cases, they are higher. They are higher in Oklahoma and probably in most States. That court upheld that and it may or may not be appealed and go through the courts further.

You mentioned school districts, post offices, this type of thing that may be in those rural areas. We've heard some people say, "Well, if you don't pay the urban wage or the higher rate or something like that, then you're discriminating against a person or a county, because they live in a rural area."

Do you agree with that?

Mr. MCFALL. I'm not sure I understand the question, Senator.

Senator NICKLES. Somebody said that if you pay somebody less for doing something in Caddo County or Texas County, and you don't pay the same thing, that you might be paying in Oklahoma County or Tulsa County, then you're discriminating against that State or that county or that individual because they are living in a rural area, as compared to an urban area.

Mr. MCFALL. I don't agree with that, Senator. The fact is, wage rates differ around the country for a number of reasons. And just as it doesn't make any sense to set a Federal minimum wage, the same for Buffalo, Okla., as for Buffalo, N.Y., the conditions are entirely different. That's a different subject. But the fact is, the wage rates are different, within the city and within the State.

Senator NICKLES. Mr. Skeith, most of the attention and most of the complaints that have focused on Davis-Bacon have dealt primarily with the building classification, not so much the heavy or highway, which would probably deal more with your membership.

Do you have any comments concerning the differences between the two or how the law applies. We haven't heard as many complaints, say, under the highway portion of it or classification as we have under the building portion.

Mr. SKEITH. Well, Senator, frankly, the Davis-Bacon Act is not an onerous thing for my industry. As currently exists, the wage determination is determined statewide. We don't have the problems, rural versus urban.

Senator NICKLES. So you only have one?

Mr. SKEITH. One wage schedule for all highway—heavy work in Oklahoma, determined by the Department of Labor. The jobs are surveyed as the law provides, off the evidence. The determinations are made on a statewide basis. And that's the case in the highway—heavy field in most of the States in the country. And you're going to probably find that to be the evidence in most instances.

My pick in the ground here today, in general, is to, hopefully, see your bill continue the effort to protect the helper proposition because the highway—heavy industry in this State, in the main, is open shop and, as such, a registered program under the Department of Labor auspices for trainees, provides, as does the apprenticeship program, an entry level of 70 percent of the journeyman's schedule with a graduated scale to journeyman status in 6 months, not 3 years, as some of my friends in organized labor have, in some instances, for the crafts.

And let me say this, Senator: The degree of skill in producing a building or doing big building construction as opposed to the degree of skill in building highways and turnpikes and dams and things like that is far different and that is the reason that it's possible to differentiate while a carpenter on a bridge job may know how to use most of the tools of the trade, he is not proficient to a degree to be a carpenter here at the State capitol.

Consequently, I could safely say that in my 26 years working for the Association of Oklahoma General Contractors, who are the highway—heavy people, no building people, we do not find, other than in the area of the problem with the helper, and that has been only on an occasional basis.

Senator NICKLES. Do you have a limitation, on the helper quota, range or something?

Mr. SKEITH. Four journeymen for one helper and, as I say, must graduate in 6 months. I beg to differ with anyone who left the impression here you could leave someone in a helper classification longer than that. You could do it if you wanted to go to the wage and hour people and pay them a nice penalty for working that individual out of his proper graduation position, and we do have some of that.

This is one executive that would not sit here and testify that I have 100 percent control of those 250 companies that pay my wages. But on a general basis, it is a rare case when a contractor elects to attempt to hold people in a helper classification when their time has run.

They are registered with an arm of the Bureau of Apprenticeship Training and an arm of the Office of Federal Contract Compliance, both of which get reports regularly on these registered people in the program of helper trainee.

Senator NICKLES. If I remember, in the administrative proposal that was pending, it had a ratio of two helpers per three journeymen. Maybe that was the limit.

Mr. SKEITH. Well, again, Senator, I would have to say in defense of, it seems to me—and I am not a student in the area of ratios—but, certainly, in the area on highway work, 1 to 4 is not unreasonable. It, perhaps, might be unreasonable in some other effort of construction but I don't know much to say about it.

Senator NICKLES. Any other comments, Mr. McFall?

Mr. MCFALL. No, sir.

Senator NICKLES. Gentlemen, we appreciate your input. All statements and comments made today will be made part of the hearing record.

Also, it may be that myself or other members of the committee may request some additional information.

We do appreciate everyone's cooperation and your willingness to stay with us on a quick time schedule. I appreciate the interest some of the other people have shown by attending this hearing, and trying to help us learn a little more on what Oklahoman's think about this law.

[Additional material supplied for the record follows:]

NATIONAL CATTLEMEN'S ASSOCIATION
425 13th Street, N.W. • Suite 1032 • Washington, D.C. 20004 • (202) 347-0228

National Headquarters
5420 S. Quebec St. • P.O. Box 3469 • Englewood, CO 80155 • (303) 694-0305

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July 7, 1983

JUL 18 ...

Honorable Don Nickles, Chairman
Subcommittee on Labor
Committee on Labor and Human
Resources
Room 428, Dirksen Senate Office Bldg.
U. S. Senate
Washington, D.C. 20510

Attention: Charlie Abshire

Dear Senator Nickles:

The Oklahoma Cattlemen's Association endorses the enclosed statement of the National Cattlemen's Association and the Public Lands Council in support of your bill, S. 1172, amending the Davis-Bacon Act.

Therefore, we respectfully request that this statement representing our views as well as those of the National Cattlemen's Association and the Public Lands Council, be included in the record of your subcommittee's hearing on bill, S. 1172.

We commend you for your sponsorship of this important legislation.

Sincerely,

Ellis Freeny
Executive Vice President
Oklahoma Cattlemen's Assn.

EF:css

Enclosure

STATEMENT

of the

NATIONAL CATTLEMEN'S ASSOCIATION

and the

PUBLIC LANDS COUNCIL

before the

Subcommittee on Labor

Senate Committee on Labor & Human Resources

regarding

S. 1172, Amending the Davis-Bacon Act

July 7, 1983

Mr. Chairman:

The National Cattlemen's Association and the Public Lands Council support bill S. 1172, amending the Davis-Bacon Act.

The National Cattlemen's Association (NCA) represents 245,000 cattlemen in the U.S. beef cattle industry, including cattle breeders, producers, and feeders. NCA's membership includes individual members as well as 50 affiliated state cattle associations and 19 affiliated national breed organizations.

The Public Lands Council represents cattle and sheep ranchers who have leases or permits to graze livestock on the federal public lands.

We believe that passage of that S. 1172 would greatly benefit rural America. It would mean that federal funds for projects, including resource protection and improvement projects, will accomplish considerably more than is possible under the existing Davis-Bacon language and the court action which has blocked the administration's efforts at regulatory reform.

All four of the major provisions of this legislation are pertinent to farmers, ranchers, and other residents in rural areas:

1. The previous rule that the "prevailing wage" is the wage paid to 30 percent of the workers in an area is simply not accurate. While the administration's attempt

to change this to a 50-percent rule was allowed by Federal Judge Harold Green (who rejoined other reform efforts), we believe that this sensible change should be incorporated into the law itself.

2. One of the greatest difficulties farmers and ranchers have had is that high wage rates in metropolitan areas were used to determine a "prevailing wage" in a rural area. That, of course, resulted in a wage rate that bore little resemblance to what was the true going rates in rural areas.

3. The recognition of the "helper" class of worker is a simple recognition of reality as such a job classification is quite common in construction projects in both urban and rural areas.

4. Many of the soil, water, and other resource protection or conservation projects in rural areas are relatively small. Raising the exemption from $2,000 to $100,000 would lead to more local firms and workers doing such work.

An example of the last point concerning the current $2,000 threshold is the problem facing those members of our organizations who graze livestock on the public lands. The two major federal land management agencies (the Bureau of Land Management and the Forest Service) are asking livestock permittees to increase their participation in range improvements but the permittees naturally are reluctant to obligate themselves to contracts whose costs are excessive

when compared to the going wage rates in the local area or when compared to that paid by their neighbors for similar, but non-federal, construction work.

Likewise, because of the budget situation, other federal agencies are asking farmers and ranchers to make up for the decrease in funds for conservation projects benefiting the public. This persuasion is somewhat weakened, however, when involvement means paying twice the going wage rates.

We urge this subcommittee to approve these responsible amendments to the Davis-Bacon Act. This bill will save the taxpayer billions of dollars, increase employment, and, in the situations mentioned, encourage natural resource improvements that are in the public's interest.

KENTUCKY PREVAILING WAGE STUDY

February, 1980

Prepared By:

The Department of Labor
Division of Management Information
Systems and Research
Building 127
Frankfort, Kentucky 40601
(502) 564-6605

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SUMMARY

This study was conducted to facilitate legislative evaluation of the impact of the Kentucky Prevailing Wage Law.

In 1931, the Davis-Bacon Act was passed to set pay standards at the prevailing area rate for federally financed construction projects. The Kentucky Prevailing Wage Law was passed in 1940. This law has undergone several changes to promote efficiency and equity.

Questions have arisen as to the proportion of total costs that are determined by prevailing wage. The percentage of total construction cost determined by prevailing wage is 16.71. At the ninety-five percent level of confidence, the true mean labor cost as a percentage of final total cost is measured to lie between 15.99 and 17.42. Large contracts did not bias this average by skewing either higher or lower. A huge disparity existed between the final contractor estimate of labor cost and the actual labor cost determined by prevailing wage.

The data utilized for the conduct of the empirical portion of this report was extracted from the Capital Construction Fund project files maintained by the Kentucky Department of Finance. The study findings reflect an analysis of payroll records for new construction projects completed during the period July 1, 1975 - December 31, 1978 that were financed by the Fund and on which prevailing wage rates were paid.

The social benefits of prevailing wage extend well beyond the number of people it directly touches. Wage-cutting in one industry can have serious consequences to workers in many other industries. Prevailing wage is only one part of a carefully developed negotiating framework in the construction industry. This legislation was designed to provide input from all interested parties to a public works construction project. It is a balanced law beneficial to employers, employees, and community groups. While less than 17 percent of total construction costs involves individuals covered by prevailing wage, the influence of this legislation is far-reaching and important to the economic stability of Kentucky.

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HISTORY OF PREVAILING WAGE

In 1891, Kansas became the first state to adopt a prevailing wage law for state sponsored construction. Several other states had passed similar laws when the United States Congress passed the Davis-Bacon Act in 1931. This law stated that employers shall not pay wages which are below the prevailing area wage for each class or craft of workers on contract construction projects which are financed by the Federal Government. Revisions and amendments to the Act have occurred in 1935 and 1964. The act by reference has been incorporated into over 60 pieces of Federal legislation involving federal grants, loans, and/or guarantees for construction projects carried on by other parties.

The Kentucky Prevailing Wage Law was first passed in 1940. The Kentucky law provided that before advertising for bids or entering into any contract for construction of public works, every public authority shall ascertain the prevailing wage rates of laborers, workmen, mechanics, helpers, assistants and apprentices for the class of work called for in the construction of public works in the locality where the work is to be performed. The law also required that the successful bidder and all subcontractors shall pay the wage rate so established.

The major change made by the 1960 legislature reassigned prevailing wage determinations by some 2,000 public authorities to a central board in Frankfort.

The 1962 General Assembly revised the 1960 law as follows. The Commissioner of Labor was empowered to make initial wage determinations and current revisions of prevailing rates. The following criteria were established to be considered in making these determinations: 1.) wage rates previously paid on reasonably comparable private construction projects constructed in the respective localities; 2.) wage rates paid on previous public works in the locality; 3.) collective bargaining agreements when applicable to the localities. The 1962 Act also provided for hearings to be held in the locality concerned and for review of the Commissioner's determinations.

The 1968 legislation concerned fringe benefits and prevailing wage determination. As a result of this law, the Department of Labor will predetermine both fringe benefits and the basic hourly rate for the various crafts employed on public works projects.

After analyzing the history of Davis-Bacon and other related statutes, the question soon forms as to what conditions caused these laws to be enacted. The basic reasons appear to be the growth in public construction and the unstable nature of the construction industry.

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The 1930's were characterized by an unprecedented increase in spending by the public sector for such things as roads, dams, and schools. These public projects had an enormous potential for disrupting economic conditions in an area.

The construction industry is characteristically unstable. The industry often suffers from periods of high unemployment to periods of rapid expansion. Large projects often attract workers and contractors from other areas.

The cost of materials and design can be described as predominately fixed cost items with the only controllable cost factors being labor and efficiency of operation. These conditions invite the possibility of wage-cutting to secure bids. The similarities among all prevailing wage laws are:

* Prevailing wage legislation has sought to protect the existing standards of construction wages in the area, and to add a dimension of stability to the industry.

* Prevailing wage laws apply to non-supervisory construction workers who are paid hourly wages. They exclude the wages of superintendents, foremen, timekeepers, and office help from coverage.

* Private contractors are required to pay wages which are no less than the prevailing area standards.

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FINDINGS

This study concerns itself with ascertaining what percentage of the final total cost of construction contracts can be attributed to wages affected by the Kentucky Prevailing Wage Law. The data utilized in this study was extracted from the Kentucky Department of Finance's records of completed Capital Construction Fund projects. Since the study confines itself to only new construction contracts, "Demolition", "Renovation", and "Purchase Only" contracts were excluded from the sample. Note Table I for a listing of contract types.

TABLE I

Breakdown of Completed Contracts

TYPE CONTRACT	OCCURRENCE
Purchase Only	36
Renovation	322
Demolition	17
New Construction	236
TOTAL CONTRACTS COMPLETED IN PERIOD	611

Our defined universe consisted of 236 new construction contracts. These contracts account for thirty-nine (39) percent of the 611 Capital Construction Contracts.

Following a random selection, described in the Methodology section, 135 contracts were selected to comprise this sample. After researching these 135 contracts, 117 were found to have complete payroll records. Note TABLE II for the defined sample breakdown.

---

*Although there were 117 contracts deemed "usable" for this study, three (3) of these contracts had combined payrolls and therefore, were treated as a single contract in all calculations. For this reason, statewide contract calculation summaries are based on 115 observations as opposed to 117.

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TABLE II

Defined Sample Breakdown

CONTRACT STATUS	OCCURRENCE
Complete Payrolls	117*
Incomplete Payrolls	2
No Payrolls Required	1
Duplicate Contract	1
No Payrolls - Utility Contract	6
No Payrolls In Files	4
Contract Payrolls Mixed with Other Contracts and Inseparable	1
ACCIDENTIAL SELECTION:	
A. Of Renovation Contract	1
B. Of Purchase Only Contract	2
TOTAL	135

The average percentage of labor costs for new construction contracts statewide, is calculated to be 16.71, based on the 115 contracts studied.

Because the sample of contracts drawn for analysis represents a large proportion of the whole population, the finite population correction[1] is used in defining the confidence limits for percentages measured for the Central Kentucky Area and for statewide measurements. The compilations for the Western and Eastern areas do not represent samples; thus confidence limits do not apply. At the ninety-five percent level of confidence, the true mean labor cost for all contracts is measured to lie between 15.99 percent and 17.42 percent.

The average labor cost was calculated separately for the Western, Central, and Eastern Kentucky Areas. All of the contracts for the Western and Eastern Kentucky Areas were utilized. The average labor cost as a percentage of final total cost for these two areas is 14.98 and 16.75 respectively.

---

*Although there were 117 contracts deemed "usable" for this study, three (3) of these contracts had combined payrolls and therefore, were treated as a single contract in all calculations. For this reason, statewide contract calculation summaries are based on 115 observations as opposed to 117.

[1]Cochran, W.G., Sampling Techniques. Third edition, Wiley, New York 1977.

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The Central Kentucky Area is represented by a sample of forty-nine (49) of a total of 154 contracts. The average labor cost as a percentage of final total cost is 17.96. The ninety-five percent confidence limits for the Central Kentucky Area are 16.32 and 19.60.

There is no substantial difference between the weighted and unweighted average labor cost. The weighted averages are greater in the statewide and Eastern Areas while the unweighted averages are greater in Western and Central Areas. For the state at-large, a statistical test determined that there was not a significant difference between the two averages. This lack of significant difference means that the larger contracts have not affected the measure by skewing it either to a higher or lower average.

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TABLE III

TOTAL CONTRACT SUMMARY

	Statewide	Western	Central	Eastern
Number of Contracts	115	36	49 of 154	30 (3 combined)
Sum of Labor Costs	$13,008,987	$1,777,629	$9,305,504	$1,925,854
Sum of Final Total Costs	$74,962,507	$12,544,615	$52,598,512	$9,819,380
Weighted Average Labor Cost	17.35%	14.17%	17.69%	19.61%
Average Labor Cost	16.71%	14.98%	17.96%	16.79%
95% Confidence Limits	15.99% to 17.42%		16.32% to 19.60%	

The 117 contracts sampled consisted of three types of construction pay categories: building, heavy, and highway. See Tables IV, V and VI. Building contracts accounted for seventy-one (71) of the 115 contracts sampled or sixty-two (62) percent. Heavy contracts and highway contracts had thirty-five (35) and nine (9) occurrences or thirty (30) percent and eight (8) percent respectively.

Of the contracts which were not used, the number from the three categories of building, heavy and highway construction is not known. Thus, it was not possible to use the finite population correction to compute confidence limits for these categories, and the confidence limits presented here are larger than they might be otherwise.

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TABLE IV

BUILDING CONTRACT SUMMARY

	Statewide	Western	Central	Eastern
Number of Contracts	71	20	35	16
Sum of Labor Costs	$11,735,013	$1,507,111	$8,453,385	$1,774,517
Sum of Final Total Costs	$66,671,240	$10,586,561	$47,631,017	$8,543,662
Weighted Average Labor Cost	17.60%	14.24%	17.75%	20.99%
Average Labor Cost	18.16%	16.00%	17.91%	21.40%
95% Confidence Limits	16.22% to 20.1%		15.11% to 20.71%	

TABLE V

HEAVY CONTRACT SUMMARY

	Statewide	Western	Central	Eastern
Number of Contracts	35	16	6	13
Sum of Labor Costs	$942,109	$270,518	$529,029	$142,562
Sum of Final Total Costs	$6,561,359	$1,958,054	$3,285,547	$1,317,758
Weighted Average Labor Cost	14.35%	13.82%	16.10%	10.82%
Average Labor Cost	13.73%	13.70%	19.93%	10.89%
95% Confidence Limits	11.11% to 16.34%		10.08% to 29.7%	

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TABLE VI

HIGHWAY CONTRACT SUMMARY

	Statewide	Western	Central	Eastern
Number of Contracts	9	0	8	1
Sum of Labor Costs	$331,865	-	$323,090	$8,775
Sum of Final Total Costs	$1,729,908	--	$1,681,948	$47,960
Weighted Average Labor Cost	19.18%	--	19.21%	--
Average Labor Cost	16.88%	--	16.70%	18.30%
95% Confidence Limits	12.83% to 20.93%	--	12.12% to 21.28%	

After this study had commenced, it was suggested that perhaps it would be helpful to compare the final, contractor-submitted estimate of labor costs to those labor costs determined by the Prevailing Wage Law. From that point in this study, these estimates were logged on the worksheets for those contracts for which estimates were available, usually the larger ones, that remained to be studied.

Table VII illustrates this comparative data. In viewing these contractor-submitted estimates on twenty-seven (27) contracts, it is understandable how the Prevailing Wage Law might be blamed for seemingly exorbitant labor costs. The resultant comparison of the two percentages indicated a disparity of approximately twenty-eight (28) percent; the former percentage was 16.58 and the latter measure, 44.54.

This study demonstrates that the actual percentage of the cost of construction determined by the Kentucky Prevailing Wage Law is 16.71. The weighted average revealed no significant difference; thus large contracts have not skewed the average. Also, data showed that the contractor-submitted periodic estimates were close to previous estimates of total labor costs, but not close to the actual labor cost determined by prevailing wage.

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TABLE VII

COMPARISON OF PREVAILING WAGE LABOR COST, TOTAL CONTRACT COST AND CONTRACTORS' PERIODIC ESTIMATES

PREVAILING WAGE-DETERMINED		FINAL CONTRACT TOTAL COST	FINAL CONTRACTOR-SUBMITTED PERIODIC ESTIMATE		
LABOR COST	% OF TOTAL		LABOR COST	% OF TOTAL	MATERIALS
$31,556.	17.79	$177,361.	$65,064.	36.68	$112,297.
$195,767.	17.29	$1,141,816.	$502,208.	44.37	$590,253.
$8,580.	15.96	$53,730.	$23,010.	42.82	$30,719.
$38,155.	12.63	$301,982.	$122,965.	40.71	$179,016.
$13,253.	12.09	$109,594.	$93,954.	85.72	$15,640.
$68,537.	14.81	$462,592.	$191,479.	41.39	$270,995.
$36,495.	15.73	$231,945.	$202,960.	81.50	$28,935.
$307,276.	13.89	$2,211,731.	$882,581.	39.9	$1,272,781.
$25,049.	11.65	$214,943.	$97,410.	45.31	$104,590.
$137,877.	6.3	$2,185,354.	$1,138,991.	52.11	$1,044,318.
$414,652.	25.95	$1,597,837.	$670,872.	41.98	$896,852.
$205-020.	19.23	$1,065,848.	$371,008.	34.8	$694,840.
$18,680.	10.3	$181,236.	$72,702.	40.11	$108,534.
$40,394.	21.34	$189,230.	$78,786.	41.63	$110,445.
$284,136.	18.76	$1,514,105.	$646,930.	42.72	$867,167.
$184,548.	19.63	$939,686.	$436,294.	46.42	$503,392.
$65,135.	5.42	$1,199,585.	$267,946.	22.32	$927,489.
$76,496.	18.95	$403,571.	$130,900.	32.43	$272,670.
$12,241.	14.84	$82,442.	$24,150.	29.29	$58,292.
$86,909.	16.64	$522,289.	$260,702.	49.91	$261,587.
$85,742.	18.93	$452,801.	$204,100.	45.07	$241,032.
$211,835.	18.04	$1,174,017.	$380,976.	32.45	$793,041.
$87,974.	13.95	$630,212.	$325,345.	51.62	$304,866.
$97,921.	20.84	$969,817.	$184,178.	39.2	$285,638.
$93,413.	25.41	$367,493.	$174,762.	40.2	$219,731.
$1,281,202.	23.51	$5,448,309.	$2,595,458.	47.63	$2,852,851.
$51,154.	17.69	$289,105.	$139,835.	48.36	$149,270.
	*16.58%			*44.54%	

* Sum of (labor / by final total cost)
27

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METHODOLOGY

By acquainting the reader with the measures employed in the execution of this project, a proper perspective for evaluation of the study findings is created. This methodology section will focus on three (3) basic subsections to construct this proper evaluative perspective.

Subsection I . . . . Definitions

familiarizes the reader with the vocabulary utilized in the report.

Subsection II . . . Scope

establishes parameters within which the study is to be conducted.

Subsection III . . . Methods and Procedures

deals with the mathematical and statistical techniques employed in the conduct of the project, and acquaints the reader with the actions taken by the researchers that resulted in the study's conclusions.

I . . . Definitions

Confidence Interval A range of values that is used to estimate a statistical parameter (such as a mean) and that tends to include the true value of that parameter a predetermined portion of the time. Confidence Limits are the values of the upper and lower end points of the confidence interval. For example, in the equation- $\bar{X}$ = 14.8—16.2 @ 95% l.c. it is reasonable to assume that the true value of the statistical mean will have a value no less than 14.8 and no more than 16.2, ninety-five percent (95%) of the time.

Prevailing Wage[1] - The term "prevailing wage" for each classification of laborers, workmen, and mechanics engaged in the construction of public works within the Commonwealth of Kentucky, means the sum of:

(1) "The basic hourly rate paid or being paid subsequent to the labor commissioner's most recent wage determination to the

[1]Kentucky Revised Statutes 337.505.

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majority of laborers, workmen, and mechanics employed in each classification of construction upon reasonably comparable construction in the locality where the work is to be performed; such rate shall be determined by the commissioner in accordance with paragraphs (a), (b), and (c) of subsection (3) of KRS 337.520; in the event that there is not a majority paid at the same rate, then the basic hourly rate of pay shall be the basic hourly rate of pay paid to the greater number: Provided, such greater number constitutes 30 percent of those employed; or in the event that less than 30 percent of those employed receive the same rate, then the basic hourly rate of pay shall be the average basic hourly rate which shall be determined by adding the basic hourly rates paid to all workers in the classification and dividing by the total number of such workers."

State Areas - As used in this study, the term "state areas" refers to the three geographic regions of the Commonwealth - East, West and Central - the boundaries of which were established by the Kentucky Department of Labor, Division of Labor Standards for administrative purposes. The East Area is composed of the pre-June, 1972 Fifth and Seventh Congressional Districts. The pre-June, 1972 First and Second Congressional Districts combine to form the Western Area. The pre-June, 1972 Third, Fourth and Sixth Districts constitute the Central Area.

Unweighted - A statistical term meaning that all observations collected while conducting a survey are allowed to have an equal influence on the calculation of the statistical mean of that sample, irrespective of the fact that some of the sample observations may constitute a larger proportion of the sample universe than others. Computation of the unweighted mean is mathematically expressed as $\bar{x} = \frac{\Sigma x}{n}$. In the equation "$\bar{x}$" represents the unweighted mean, "Σx" represents the sum of all observations, and "n" symbolizes the number of observations in the sample.

The unweighted mean is simply the average labor cost per project expressed as a percentage of the total cost of the project.

Usable Contract - The term "usable contract" refers to a public works project agreement that meets the following criteria:

a. The project was financed by Capital Construction Fund monies.

b. The project had been completed and all required information had been provided to the Department of Finance by the contractor who performed the work.

c. The project was completed during the time period of July 1, 1975 thru December 31, 1978.

d. The project contract was for new construction only; not renovation, demolition or purchases of existing facilities.

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Weighted - Statistical terminology meaning that the data collected while conducting a survey was subjected to mathematical manipulation in order to allow some observations, deemed to be of greater magnitude, to have a greater proportional influence on mean calculation relative to other observations in the sample.

The weighted average labor cost per project expressed as a percentage of final total cost of the project is calculated in this manner:

$$\frac{\text{Sum of all Prevailing Wage Determined Labor Costs}}{\text{Sum of all Total Project Costs}}$$

II . . . Scope

This subsection of the study deals with measures employed by the researchers to prevent the inclusion of any irrelevant or unreliable data in the study.

This project required establishing the following guidelines to govern the conduct of the study.

A. Time Period - Since it is desirable for a study to reflect current conditions as nearly as possible, the project staff decided to confine their research to only those construction projects completed during the period July 1, 1975 thru December 31, 1978. This time span provided for a sufficient universe from which to glean a valid sample.

B. Data Sources - Payroll and construction costs records for public works projects in Kentucky are maintained, at least to some extent, by three (3) different agencies, the Department of Labor's Division of Labor Standards, the Department of Transportation and the Department of Finance, Bureau of Facilities Management. Since the records of the Capital Construction Fund, maintained by the Department of Finance were already an issue of interest, combined with that agency's "purse-string control" on contractor compliance with payroll submission requirements, the files of the Bureau of Facilities Management were selected for study.

C. Contributory to Labor Costs - It is important to reiterate that this study concerns itself with the allegations that prevailing wage laws are inflationary and that prevailing wage determined labor costs contribute as much as fifty percent (50%) to the total cost of public works. Therefore, the research must be conducted carefully to insure that only the wages of employees subject to the Kentucky Prevailing Wage Law were included in this analysis. This law affects only the wages of non-supervisory construction-workers who are paid at an hourly rate. The wages of superintendents, foremen, timekeepers, consultants or clerical

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staff are not determined by the prevailing wage statute and, as such, were omitted from this study.

D. Characteristics of the Projects Selected for Study - To insure the validity of the survey findings, certain criteria were established for selecting the projects that constituted the basis for the study. Project contracts deemed to be "usable" conform to the criteria cited in the definitions section.

Contracts for demolition, renovation and purchase only were not utilized in conducting the survey. This measure was taken to insure that mean calculations more accurately reflect basic tendencies. Demolition is subject to the Kentucky Prevailing Wage Law only under certain stringent conditions. A "purchase only" contract involves no on-site construction. Inclusion of these contracts in the study, as well as the extremely variable "renovation" contracts, would serve to have an invalidating effect on mean calculation.

III . . . Methods and Procedures

This subsection is designed to acquaint the reader with the statistical techniques employed and the actions taken by the researchers in the conduct of the study.

The Capital Construction Fund contract files were reviewed to obtain a listing of usable contracts. The projects were geographically segregated into one of three "state areas", according to site location (see subsection I "Definitions").

Since the East and West areas embodied only a relatively few number of contracts, thirty (30) and thirty-six (36) respectively, this total universe of projects was selected for study. For this reason, the average prevailing wage determined labor cost as a percentage of total project cost can be determined exactly for those "state areas".

For the Central Area, having 154 contracts, a stratified random sampling method was employed to select the projects to be studied. These projects were stratified to insure proportional representation, relative to the Central Area universe, in selecting the projects comprising the sample for that area. Since sampling was employed in the Central Area, it was necessary to establish a confidence interval in order to express the average prevailing wage determined labor cost as a percentage of total project cost for that area, and the entire state. A ninety-five percent (95%) level of confidence was deemed appropriate for mean calculations relative to this study.

The Capital Construction Fund records were reviewed for the projects comprising the sample population. Two items were specifically examined, the prevailing wage determined labor cost of a project and the total cost of the project, with the focus being on the relationship between the two figures.

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Weighted and unweighted average prevailing wage determined labor costs were calculated for the various "state areas" and the state at-large. (See subsection I . . . Definitions). These calculations were to ascertain whether there is a correlation between project size and the percentage of project cost attributable to the Prevailing Wage Law. Comparison of the weighted averages with the unweighted averages suggest no such correlation.

In tabulations all numbers were rounded to the nearest whole dollar.

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COMMENTARY

This study demonstrates the relatively small percentage of construction costs attributable to prevailing wage. The economic cost of prevailing wage is minimal: the social cost of repeal would be much higher. Several factors must be considered in evaluating the social impact of repeal of prevailing wage legislation.

Perhaps foremost would be the effect of any form of wage-cutting on the larger economic picture. Wage-cutting does not confine its impact to a particular segment of the economy. While repeal of prevailing wage would only slightly alter construction costs in the state, it would signal to the economy as a whole that maintaining a stable wage structure was no longer an item of public concern. Labor-Management relations would be significantly affected.

Confining the analysis to the construction industry, it should be noted that this industry is by nature sensitive to economic fluctuations. Prevailing wage is simply one means of providing stability to an inherently unpredictable industry. Wage-cutting offers the prospect of an influx of out-of-state workers and builders in the Kentucky labor market. Should this situation develop, dollars which would have stayed in Kentucky will be circulated elsewhere as these workers and builders relocate. Controls over the quality of work will suffer as the number of transient workers increases and as Kentucky's skilled workers leave the state. Unemployment within the industry can be expected to increase, which will impose additional costs on the state. Loss of tax revenues will also result from this situation.

It has taken years to develop a favorable framework for negotiation of labor-management disputes in this industry. Prevailing wage is part of this framework. By providing a forum for all interested parties -- employers, workers, and community groups -- the prevailing wage law seeks to establish an equitable wage structure in line with regional standards. Prevailing wage is decidedly noninflationary. Rather than encouraging an artificial rise in wage costs, it simply confirms the wage structure that already exists in an area. The inflationary factor must be located elsewhere; it does not lie with prevailing wage.

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OFFICE OF THE MAYOR

JAMES M. INHOFE
MAYOR

June 29, 1983

The Honorable Don Nickles
Chairman, Subcommittee on Labor
Committee on Labor and Human Resources
United States Senate
Senate Hart 713
Washington, D.C. 20510

Dear Senator Nickles and Members of the Subcommittee on Labor:

I am pleased to have the opportunity to comment on the proposed amendments to the Davis-Bacon Act as outline in S. 1172.

As you are aware, the Davis-Bacon Act was adopted during the Hoover Administration of 1931 and was sponsored by two conservative Congressmen, Representative James J. Davis (R-PA) and Robert L. Bacon (R-NY). When enacted, the Davis-Bacon Act was needed to provide basic wage protection to local laborers and mechanics employed on Federal construction projects. 1931 was an era of extreme economic depression and many contractors were able to submit low bids on government contracts by hiring cheap labor from outside the project area. Local craftsmen protested because their wage standards and conditions were broken down by those contractors who recruited their labor from distant cheap labor areas. The local communities requested assistance because of the loss of work and purchasing power of their own citizens. The purpose behind the legislative history of the Davis-Bacon Act is no longer valid.

The Act today is much more harmful than it is beneficial. With the adoption of both Federal and State minimum wage laws and the ability of municipalities to require that 50 percent of all workers on city contracts be residents of that city has virtually eliminated the need for the Davis-Bacon Act. The Act, as it exists today, inflates wage rates by not accurately reflecting "prevailing" reates, (particularly in rural areas), causing inflation, (which has greatly inhibited small business competition), and costing the taxpayers billions of dollars. These conclusions were reached by the General Accounting Office, Congressional Budget Office and the President's Council of Economic Advisors in 1981. Their reports further conclude that the Davis-Bacon Act unnecessarily increases the cost of construction projects by five to twenty percent.

The City of Tulsa, over the past five years, has financed $132,166,609, using a combination of both Federal and local funds in municipal construction projects. It is easy to see that a 5-20 percent increase of unnecessary

expenditures caused by the Davis-Bacon Act amounts to millions of dollars as far as the City of Tulsa is concerned. Had these millions of dollars been available to the City of Tulsa, further projects could have been done, additional local workers could have been hired, and the tax-paying public would have received more completed projects for their dollars. A cursory review of actual projects constructed under the Davis-Bacon Act is full of examples where the City of Tulsa has had to literally waste money.

The City of Tulsa, in constructing the City's Downtown Pedestrian Mall, spent $2,765,735.34 towards the project, which was covered by the Davis-Bacon Act. One portion of the project included a contract with Clifton Landscape Company, Inc., Tulsa. John McNeill, classified a common laborer for Clifton Landscape Company, Inc., was normally paid at the rate of $3.50 an hour. However, on the Pedestrian Mall project, due to the Davis-Bacon Act, he was paid $7.25 an hour, or double his normal rate.

The City of Tulsa is currently constructing the Greenwood Centre Project. This project is a redevelopment of the historical area of Archer Street and Greenwood Avenue into a 48,000 square foot office/commercial complex. The total cost of this project will be approximately $3,981,750 and will be funded through a combination of Federal, State and local monies. Miller-Stauch Construction Company, hired for this project, normally pays a common laborer $5.00 an hour. However, the common laborer classification on this project, due to the Davis-Bacon Act, will be $11.65 per hour, or an increase of 133 percent over the true prevailing age in the area.

Similar examples can be found in every project undertaken by the City of Tulsa directly caused by the Davis-Bacon Act.

As Mayor of the City of Tulsa, I strongly support the repeal of the Federal Davis-Bacon Act. Since there is no legislation currently pending for the repeal of the Davis-Bacon Act, I would most strongly support any Davis-Bacon reforms that ease the financial/administrative burdens on local governments.

S. 1172 proposes several necessary reforms of the Davis-Bacon Act. The benefits of the reforms are as follows:

(1) The proposed change from 30 percent to 50 percent or weighted average in the determination of the prevailing wage rate will in many cases help to reflect a more true prevailing wage in the community. This will not only benefit the City of Tulsa and its taxpayers but will be particularly helpful to rural communities throughout Oklahoma.

(2) The proposed reform of raising the $2,000 exemption limit to $100,000 is a very needed change. The limitation set 52 years ago is totally unrealistic in today's market. Last year, the City of Tulsa let 37 major capital improvement construction contracts. Because of the City's size and the nature of our capital improvement projects, even the $100,000 exemption would not have been met. However, the Tulsa Urban Renewal Authority, an Authority of the City of Tulsa, awarded approximately 15 Community Development Block Grant (CDBG) contracts between 1982 and 1983. Four of those contracts were exempted under the current $2,000 limit and eleven could have been exempted under the proposed $100,000 exemption.

In this area, the proposed amendment would be of great value to the City of Tulsa. Additionally, this proposed amendment would encourage a great number of small minority businesses to compete for Federal contracts without the increased administrative burdens and additional work requirements that are necessitated by the mandatory requirements of the Davis-Bacon Act. The resulting increase in competitive bidding would ultimately help in the lowering of construction costs. As Mayor of the City of Tulsa, I would like to see the exemption limit raised to $1,000,000 for those cities whose population exceeds 250,000. The $100,000 exemption level would only benefit the City of Tulsa on contracts through Authorities that are usually let in smaller amounts. Cities such as Tulsa would need a higher exemption amount to obtain significant relief from the Davis-Bacon Act. If the exemption level were raised to $1,000,000, seven contracts of the 37 major capital improvement construction contracts would have been exempt and would have resulted in a direct benefit to the City of Tulsa and its taxpayers.

(3) The proposed change to add the classification of helper would not only lower construction costs but would benefit the non-union laborer.

In summary, I would like to thank you and the Members of the Subcommittee on Labor for the opportunity to submit my comments and suggestions. Again, as Mayor of the City of Tulsa, I strongly support any proposed reforms to the Davis-Bacon Act. I would also request that the Subcommittee take under consideration raising the exemption level from $2,000, as established in 1931, to $1,000,000, which is more in line with the realities of today's projects.

If any additional information is required or if I may further assistance to this Committee, please do not hesitate to contact me.

Respectfully submitted,

James M. Inhofe
Mayor
Tulsa, Oklahoma

Senator NICKLES. With that, we'll adjourn this meeting. Thank you very much.

[Whereupon, at 3:20 p.m., the subcommittee was adjourned.]

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